

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

EAUX HOLDINGS, LLC	*	Docket No. 2:20-cv-1582
	*	
	*	
VERSUS	*	March 8, 2022
	*	
	*	
SCOTTSDALE INSURANCE CO.	*	Lafayette, Louisiana

OFFICIAL TRANSCRIPT OF JURY TRIAL DAY 2 OF 4
BEFORE THE HONORABLE JAMES D. CAIN, JR.,
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

FOR THE PLAINTIFF: SOMER GEORGE BROWN
MICHAEL K. COX
Cox, Cox, Filo, Camel & Wilson
723 Broad Street
Lake Charles, Louisiana 70601

FOR THE DEFENDANT: JOHN POWERS WOLFF, II
MARY ANNE WOLF
CHELSEA ACOSTA PAYNE
FABIAN EDWARDS
Keogh, Cox & Wilson
P.O. Box 1151
Baton Rouge, LA 70821

REPORTED BY: DEIDRE D. JURANKA, CRR
USDC - Western District of LA
P.O. Box 13271
Lake Charles, LA 70612

Deidre D. Juranka, CRR
United States Court Reporter
Western District of Louisiana

I N D E X

	PAGE
COURT PROCEEDINGS.....	117
ADAM LOCK	
PROFFER EXAMINATION BY MS. BROWN.....	128
DIRECT EXAMINATION BY MS. BROWN.....	133
CROSS-EXAMINATION BY MR. WOLFF.....	159
REDIRECT EXAMINATION BY MS. BROWN.....	192
RICHARD POOLE	
DIRECT EXAMINATION BY MR. COX.....	203
CROSS-EXAMINATION BY MS. WOLF.....	208
REDIRECT EXAMINATION BY MR. COX.....	215
JEFFREY MAJOR	
DIRECT EXAMINATION BY MS. BROWN.....	216
TRAVERSAL EXAMINATION BY MR. WOLFF.....	232
DIRECT EXAMINATION BY MS. BROWN.....	235
CROSS-EXAMINATION BY MR. WOLFF.....	277
REDIRECT EXAMINATION BY MS. BROWN.....	302

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COURT PROCEEDINGS

THE COURT: Anything come before the Court before I bring the jury in? Are our jurors here? We had one running a little bit late. She's here. Okay. If there's nothing else --

MS. BROWN: Your Honor, plaintiffs have a couple items.

THE COURT: Sure.

MS. BROWN: We sent an e-mail this morning.

THE COURT: Right. I probably didn't read it.

MS. BROWN: Probably not. I would like to revisit, while we still have this witness, the admissibility of the reserves. As a preliminary matter, the motion in limine on that issue was filed six months after the deadline. When we reset this trial from November we were expressly told the deadlines were not going to be extended. I understand you still have to rule on the admissibility regardless of whether it's by motion or objection, but we did not have a full opportunity to respond and do the research on the motion that was presented essentially the night before trial, the last business day before trial. We've now done that research, provided it to the Court and opposing counsel by e-mail. I think that the reserve information is -- the one case that is cited in the motion in limine

1 excluded the reserve information because it was being
2 used to show the amount in dispute. I believe the
3 proper admissibility is with a limiting instruction that
4 it is not being offered. It's not even being offered
5 for that purpose. It's being offered solely for the
6 purpose of showing motive, showing timing. And those
7 things the Eastern District Court has found admissible.
8 Now, the Fifth Circuit has not ruled on this issue; but
9 the one federal court to address the issue of allowing
10 admissibility for that limited purposes allowed it in.

11 THE COURT: I'm not -- you know, listen, as I told
12 you, I'm not worried about -- I am a stickler for the
13 deadlines, but I would have probably deferred it to the
14 merits anyway because one of the things, as y'all are
15 learning from -- with me, I'm not a big proponent of,
16 like, omnibus motions in limine and all this stuff
17 because a lot of this stuff I can't rule on. I don't
18 want to make a blanket ruling early on because I don't
19 know how you're going to present your case. I don't
20 know if you're going to lay the proper foundation. So
21 trial's a fluid thing.

22 On this particular issue, did you get the e-mail,
23 Toni? I didn't see an e-mail this morning.

24 MR. COX: E-mailed it about ten minutes ago. It
25 was Toni's e-mail but apparently --

1 THE COURT: Here's the thing. Here's the thing. I
2 mean, to me the reserve information, I just don't -- I'm
3 still leaning that that's not relevant or admissible for
4 the purposes you want to offer it for because reserves
5 are set for accounting purposes. It's not really, to
6 me, a function of the claims process as much as it is a
7 company trying to do its bookkeeping. I know why you
8 want to use it. You want to look at, "Hey, you put the
9 reserves here. You only paid us this much. You knew
10 back here it was this."

11 MS. BROWN: And he ultimately paid very close to
12 that.

13 MR. COX: And there's more, Judge. All we want you
14 to do is read our brief. They filed a brief six months
15 too late. We just want you to read our brief.

16 THE COURT: I think the genesis of their brief was
17 your demonstrative exhibit which I asked y'all a couple
18 weeks ago to exchange so y'all could -- because I didn't
19 want us to be stopping in the middle of opening
20 statements. Go ahead.

21 MS. BROWN: To be fair --

22 MR. COX: -- before the last trial, Judge. They
23 had it before November.

24 THE COURT: Look, let's be practical here. Once
25 the trial was kind of -- I mean, you know, I don't know.

1 Let me -- I'll look at it but, I mean, I'm not inclined
2 to change my position on this. But I'm not going to sit
3 here -- do you have the brief, Toni?

4 MR. COX: Can you give us your e-mail again? They
5 gave us your e-mail. Must be the wrong one.

6 THE COURT: The only reason I'm even going to look
7 at your brief is because I looked at theirs. Out of
8 fairness --

9 MR. COX: That's all we want.

10 THE COURT: -- out of fairness, I'll look at it.
11 But I'm still in my mind and the practicality of things
12 is that the reserve information -- I think it can be
13 very confusing to a jury to distinguish between a
14 reserve and estimate of the adjuster, because you're
15 trying to blur the lines on what a reserve is, in my
16 view, and what an estimate is. And I think what you're
17 better off doing is looking at their adjuster's
18 adjustment at the beginning of this incident and then go
19 from there on the payments, not look at when they set
20 the reserves. Some guy that we don't even know set the
21 reserve. I guess the witness gave some information to
22 somebody else up the chain of command and he sets the
23 reserve. I don't know.

24 MR. COX: Adam Lock recommended the reserve.

25 THE COURT: I know he recommended it, but doesn't

1 mean they always accept his recommendation. Look, I'm
2 sure there's been a lot of recommendations in these
3 claims by insurance companies that somebody higher up
4 said we're not paying that.

5 MS. BROWN: Well, they did accept it. But even if
6 I'm allowed to ask him what he recommended for the
7 reserve and why.

8 THE COURT: You find the brief?

9 MS. PETROFES: Still hadn't come through.

10 MR. WYGANT: I'm trying to send it again, Judge.

11 THE COURT: Let me ask you this, Ms. Brown. For
12 what purpose are you trying -- what is the relevance and
13 what is the purpose of putting the company's reserves on
14 this file into evidence?

15 MS. BROWN: Well, part -- in part, I have to prove
16 that they were arbitrary, capricious, and without
17 probable cause.

18 THE COURT: What's the reserve got to do with that?

19 MS. BROWN: That means that I've got to show all
20 the information they knew and what action they took
21 despite knowing it based on the information that Adam
22 Lock had at a point in time. And he can say otherwise
23 if that's the case; but I have his recommendation, the
24 information that he had at a certain point in time.

25 THE COURT: Exactly. That's the information, in my

1 view, you should put in evidence, the information he had
2 to recommend the reserve, not what the reserve was.
3 That's what I keep going back to. You need to go and
4 say what did you have at this point in time in this
5 claim that you utilized -- I'd let you ask this -- that
6 you utilized in recommending a reserve. But to put the
7 amount of the reserve in, to me, is very misleading.
8 You disagree. I understand. But I think then you're
9 blurring the lines between reserve and what they
10 establish the estimate to be. Why don't you just ask
11 him for the information that he used to get the -- send
12 up the chain.

13 MS. BROWN: Well, that's where it goes to -- it's
14 not just that he had the information. He's admitted he
15 had the information. But he acted on it which makes it
16 satisfactory proof of something. I mean, these are the
17 arguments that, of course, the jury is going to decide.

18 THE COURT: Personally -- you know, look, I'm not
19 trying the case. You see that four volumes you got
20 sitting on that podium? That's pretty dadgum convincing
21 to me that you had a lot of information you provided
22 them on the date you gave that to the company. He had
23 that much information to deal with. I don't really
24 still see where the reserve -- I think it's going to
25 confuse the jury. I think -- personally, I think

1 legally reading the stuff, I think it's misleading and
2 it's confusing, where what we're really working on,
3 satisfactory proof of loss, is based on did you provide
4 them information that they could act on in adjusting the
5 claim or making a payment on the claim. The reserves
6 have nothing to do with that. That's an internal
7 accounting mechanism for the company. That's the way I
8 see it. That's the way the cases see it. I think
9 that's the way -- I don't think this issue has ever gone
10 to the Fifth Circuit.

11 MS. BROWN: It has not.

12 THE COURT: And I don't want -- it may go up there.
13 And if I'm wrong, God bless them, I will do what the
14 Fifth Circuit says; but, you know, right now I don't see
15 it.

16 Did you find the brief? I'll look at it real
17 quick.

18 MR. COX: Thank you.

19 MS. BROWN: And the other thing that is not related
20 to the reserve, while we're waiting, in candor to the
21 Court, based on some discussions yesterday, I didn't
22 expect the Court to look at the four volumes but I did
23 check to make sure. There is nothing in there that
24 references proof of loss or satisfactory proof of loss.

25 THE COURT: I doubted there was, to be quite honest

1 with you. Yes, Mr. Wolff.

2 MR. WOLFF: We agreed after your ruling that we're
3 not objecting to all --

4 THE COURT: You-all even offered to let her put it
5 in while he was on the stand yesterday.

6 MR. WOLFF: Right. Just so we don't have to step
7 up again, if they offer it, we do object to it for
8 anything other than it being an estimate, not as proof
9 of loss or --

10 THE COURT: Well, the jury is going to be the ones
11 to decide whether that is satisfactory proof of loss.
12 That's a legal question that I will instruct the jury
13 on, and they're going to decide whether when that was
14 submitted to them did the company have satisfactory
15 proof of loss.

16 MR. WOLFF: Right, and I think that you ruled in
17 motions in limine that the admissibility of that would
18 be determined upon objection at trial because, as you
19 will see, Mr. Major and Mr. Lock will both agree that
20 that number in there has nothing to do with what
21 happened. It's not a relevant number. So we are
22 objecting to it.

23 THE COURT: I don't know how it's not a relevant
24 number. I mean, they gave it to the company to act
25 upon, to inform them of the claim and the scope of the

1 claim --

2 MR. WOLFF: I understand.

3 THE COURT: -- so it is relevant.

4 MR. WOLFF: I just want to put in this objection,
5 if we could note that for the record. I understand your
6 ruling. Because I don't want to get up and waste your
7 time.

8 THE COURT: That's fine. So your objection for the
9 record is it's not relevant.

10 MR. WOLFF: Correct.

11 THE COURT: Okay. Overruled.

12 MR. WOLFF: Thank you.

13 THE COURT: Give me one moment. I'm not a speed
14 reader like Toni and them are. I still am not 100
15 percent convinced. I don't see that this is the
16 minority opinion. I see that there's really more of a
17 split about the reserve information. I'd have to delve
18 into the Eastern District case you cite, the *Star*
19 *Indemnity* case, and I don't even know the context of it.
20 But I can tell you the case -- the *Shelter* case, yeah, I
21 mean, I don't really understand in that case how that's
22 relevant here about bonuses for employees. To me,
23 that's not relevant here.

24 MR. COX: Not relevant here.

25 THE COURT: Just not relevant.

1 MR. COX: Agreed.

2 THE COURT: Then on your argument that this goes to
3 show when they had notice of the claim, they had notice
4 of the claim before they set the reserves. They had
5 notice of the claim when you gave them that. So by
6 showing them the reserve doesn't really give them an
7 accurate date on when they got notice of the claim.
8 That's going to show them when they got notice of the
9 claim, when you submitted satisfactory proof of loss,
10 not them setting the reserves. I'm sorry. I don't
11 think this is admissible. I just don't see the
12 relevance of it.

13 MR. COX: We respect your ruling. Thank you, Your
14 Honor. We do want to proffer.

15 THE COURT: Okay. You want to do it now?

16 MR. COX: Please.

17 THE COURT: I'm just going to tell you I think this
18 is very limiting, those cases. I'd have to delve into
19 them. It'd have to be some unique circumstance because
20 to a great extent I don't even think a lot of this
21 reserve information in a lot of the situations is really
22 even discoverable because it really has no bearing on
23 the actual claim. I see your point. I just don't agree
24 with it.

25 MS. BROWN: We need Mr. Lock.

1 THE COURT: Come on up, sir. I'd be more inclined
2 to buy it if they set the reserves at zero or a hundred
3 thousand dollars because then that to me would tell me
4 you gave them all that information and they just ignored
5 it, which to me then tells me maybe that is relevant.
6 It's really -- y'all want to put it in. That to me
7 would probably be more convincing to me to let you get
8 into it if they would've set the reserves at a low
9 amount. That would've told me they didn't properly
10 adjust the claim, probably.

11 MR. COX: That's a little bit about what's coming,
12 Your Honor.

13 THE COURT: Well, they set it --

14 MR. COX: They recommended it and it did not get
15 set because of some oversight. That's going to be the
16 testimony, I believe.

17 THE COURT: How long is this going to take?
18 Because I got a jury in there waiting.

19 MR. COX: Five minutes.

20 THE COURT: We'll do it at a break if it was going
21 to take too long. So this is a proffer?

22 MS. BROWN: Yes, Your Honor.

23 **ADAM LOCK,**
24 after previously being duly cautioned and sworn to tell the
25 truth, the whole truth and nothing but the truth, did testify

1 on oath as follows:

2 **PROFFER EXAMINATION**

3 **BY MS. BROWN:**

4 Q. Okay. Mr. Lock, you recall yesterday we were
5 talking about setting reserves?

6 A. Yes, ma'am.

7 Q. And you told me that you believed a reserve was the
8 most you would ever pay on a claim?

9 A. Yeah, it's the most that we think that we could owe
10 on the claim. Yes, ma'am.

11 Q. Going to show you what plaintiffs are proffering as
12 Exhibit 105. You familiar with this document that was
13 produced to us by Scottsdale?

14 A. I am.

15 Q. Is this something that you follow in setting
16 reserves?

17 A. Yes, as a guideline. Yes, ma'am.

18 Q. Want to look at the definition that Scottsdale
19 gives to a reserve. You see I've highlighted it, and what
20 this says is not exactly what you told me. This says,
21 "Reserves on an individual claim should be set at the
22 ultimate probable loss cost to ensure the individual reserve
23 is adequate to pay the loss." Goes on to say, "The UPLC,"
24 that's the ultimate probable loss cost, "is an assessment of
25 the most likely exposure on a file based on the facts of the

1 particular claim." You see that?

2 A. It does say that, yes, ma'am.

3 Q. And so at Scottsdale Insurance a reserve is the
4 most likely outcome of the claim, what you believe based on
5 what you know at the time to be the most likely outcome?

6 A. It depends on other circumstances. I think on
7 Page 6 it talks about when there's a dispute about the amount
8 of the loss.

9 Q. Okay. You also prepared -- to be fair, you do not
10 set the reserves as a desk adjuster?

11 A. I request authority if it's over my -- so I can set
12 reserves up to a certain amount. And then if it's over that
13 amount, then it goes to the appropriate level of management
14 for them to approve it. I technically do key in the numbers
15 into the computer system.

16 Q. What is the -- what is your threshold of authority
17 on reserves or what was it at that time?

18 A. I think it was 75,000.

19 Q. I'm going to show you what plaintiffs are
20 proffering as Exhibit 14. You recognize this document?

21 A. I do.

22 Q. This is the document in which you, Adam Lock, made
23 a recommendation for a reserve on this case, correct?

24 A. Yes.

25 Q. Okay. The date of this document is September 30th

1 of 2020?

2 A. Yes, ma'am.

3 Q. The reserve recommendation that you made was the
4 full policy limits plus those additional coverages for a
5 total of 2,035,000?

6 A. Yes, ma'am.

7 Q. At that point in time you had the four-volume
8 estimate from Skyline, correct?

9 A. I had a digital version of that.

10 Q. Okay. You had the complete Skyline estimate?

11 A. Yeah, I had a digital version of their estimate and
12 photos.

13 Q. Okay. You had spoken to Monte Jones, the
14 independent adjuster hired by Scottsdale who said he believed
15 the loss was at least 1.5 million?

16 A. Yes, ma'am.

17 Q. And then there's another building consultant we
18 haven't talked about yet. What he told you was that the
19 initial rough order of magnitude is \$975,000 not including
20 water mitigation or temporary roofing, correct?

21 A. Yes, ma'am.

22 Q. And you anticipated that that rough order of
23 magnitude of \$975,000 will increase due to the build-out
24 requirements of the first floor --

25 A. Yes, ma'am.

1 Q. -- correct?

2 A. Yes.

3 Q. And that is what you -- all of that information
4 that you had on September 30th is what you used to recommend
5 making the full policy limit reserve?

6 A. No, ma'am.

7 Q. So this document is incorrect?

8 A. It's not incorrect.

9 Q. What else did you rely on?

10 A. Well, I relied on the fact that construction
11 material prices had gone up by 400 percent for some types of
12 materials since May. I knew that there was going to be a lot
13 of people trying to get a lot of work done very soon so that
14 can make prices fluctuate. I also -- we have a practice, I
15 think as outlined in those reserve best practices, that when
16 we have a dispute about the amount of a claim we will
17 sometimes set the reserve for an amount between where we are
18 and where the insured is. So based on roughly 975 plus 491
19 rounded up to 1.5, your guy was at 2.5, 2.6, the middle of
20 that is roughly \$2 million, which is where that reserve is.

21 Q. And until the reserve is set you can't make a
22 payment, correct? You can't make a payment above your
23 authority until the reserves is raised?

24 A. Yeah. No, I can't make a payment above my
25 authority until my authority is given to me.

1 Q. Okay. And you sent your recommendation for the
2 reserve on September 30th. We saw that, correct?

3 A. Yes.

4 Q. I want to show you what we're proffering as
5 Exhibit 34. You told me yesterday Jennifer Vick is your
6 supervisor. Show you an e-mail from her in December. What
7 is the CDR?

8 A. That's a claims development report.

9 Q. Okay. That was a report we just looked at?

10 A. Yes, ma'am.

11 Q. And she said, "It's ready for distribution. Late
12 sending. I thought it was sent back in September," correct?

13 A. That's what it says.

14 Q. So your recommendation didn't even get processed
15 until December?

16 A. That's not correct.

17 Q. E-mail says that she thought it was sent back in
18 September?

19 A. She didn't distribute the report to other
20 departments within the company until December. I don't get
21 approval on the claims development report, you know, unless
22 management signed off on it.

23 Q. And despite the fact that I guess you said the
24 policy limits was in between what you thought was owed and
25 what we thought was owed or what Skyline thought was owed,

1 you still didn't issue a payment of even what you thought was
2 owed or your people, the 1.5 million?

3 A. We didn't have enough information to yet.

4 MS. BROWN: That's all we have, Your Honor.

5 THE COURT: Any questions on this proffer?

6 MR. WOLFF: No, Your Honor.

7 THE COURT: All right. Okay. I'm going to just
8 tell you, I'm still not convinced. I mean, appreciate
9 your proffer. I listened to it. I still don't see the
10 relevance, how this has anything to do with the bad
11 faith allegations of this claim. I gave you a fair
12 hearing on it. Okay. Let's bring the jury in.

13 (Jury enters courtroom.)

14 THE COURT: Good morning, ladies and gentlemen.
15 Hope you had a pleasant evening. We had a few little
16 things we had to take care of. I think one of you --
17 it's no problem. Things happen. I think somebody was
18 running a little bit late. That's okay. Any problems?
19 Any issues you need to bring to my attention? Are you
20 good to go? Okay. Ms. Brown.

21 **DIRECT EXAMINATION**

22 **BY MS. BROWN:**

23 Q. Mr. Lock, before we get too far, I want to tell you
24 last night -- yesterday afternoon we agreed to some math.
25 Attorneys for Scottsdale stipulated to the math. I'm going

1 to tell you this number is \$2,000 less than the number I put
2 up yesterday. I'm going to change the exhibit out because
3 Mr. Odom pointed out to us that one of the Crest Roofing
4 invoices for \$2,000 was for his other property at 622
5 Esplanade.

6 A. The one you had sent to us?

7 Q. Correct. So just in full disclosure, you would
8 agree with me this number is \$2,000 less than the number --
9 the 2,033,000 yesterday is 2,031,000?

10 A. I will trust your calculator skills.

11 Q. Okay. Now, yesterday we talked about the Louisiana
12 law. You said that you understood your obligation to comply
13 with that 30-day timely payment requirement under the law,
14 correct?

15 A. Yes, ma'am.

16 Q. Okay. We went through all the invoices and I'm not
17 going to do that again, but I do want to ask you about a
18 couple of things. You remember when we went through these
19 costs you told me that Scottsdale had the temporary roofing,
20 the environmental cleanup, and the mitigation bills back in
21 September?

22 A. I'd have to see those. There was something about
23 the environmental that was dated the last day of September,
24 or was that something else?

25 Q. Okay. You had them in September or October?

1 A. Okay. Yes.

2 Q. You agree with that?

3 A. Yeah.

4 Q. You had the big mitigation bill for 491,000 for
5 sure?

6 A. Yes.

7 Q. Okay. And you had the Crest Roofing bills --

8 A. Yes, ma'am.

9 Q. -- the 51,000?

10 Okay. I want to show you --

11 MS. BROWN: I'm going to offer Exhibit 20.

12 MS. WOLF: Which one?

13 MS. BROWN: 20.

14 MS. WOLF: No objection.

15 THE COURT: It'll be admitted.

16 BY MS. BROWN:

17 Q. Now, before we get into Exhibit 20, with regards to
18 the mitigation, the 491,000, Scottsdale hired an outside
19 adjuster just to look at the mitigation bill, correct?

20 A. That's correct.

21 Q. Okay. You didn't have any issue with the temporary
22 roofing?

23 A. It seemed high; but given the emergency nature of
24 everything, I was going to go with it, yeah.

25 Q. So those bills that you had in September and

1 October, you sent the restoration bill to your adjuster,
2 Wardlaw. And I'm going to show you Exhibit 20 now. This is
3 an e-mail from Alex Braig with Wardlaw Claims. This is the
4 independent adjusting firm that looked at the mitigation
5 bill, correct?

6 A. Yes, ma'am.

7 Q. To you, Adam Lock, regarding his review of the
8 mitigation bill, the \$491,000. Your adjuster recommended a
9 payment of \$124,731.98, correct?

10 A. He's not an adjuster, ma'am. He's a consultant,
11 like an expert on water mitigation and dry-out procedures and
12 how long things take to dry out, what they should cost.

13 Q. I thought you told me that they were independent
14 adjusters on the mitigation.

15 A. There was only one independent adjuster involved
16 and that was Monte Jones.

17 Q. Then your expert told you that he believed the
18 amount of the mitigation bill was \$124,731.98?

19 A. Yes, ma'am.

20 Q. He told you that on November 12th of 2020?

21 A. Yes, ma'am.

22 Q. And yet when we go and look at the payments that
23 Scottsdale made, which we saw yesterday, the mitigation is
24 this payment, \$177,731.98; isn't that right? That amount is
25 the 124,000 that Alex Braig told you to pay plus the

1 temporary roof, the 53,000. That equals -- we can do the
2 math.

3 A. Yeah, I mean, if you want to do the math. I wasn't
4 involved in the handling of the claim on January 8th.

5 Q. But you're here on behalf of Scottsdale today?

6 A. I am.

7 Q. So we've got the 124,731.98. That's what Wardlaw
8 told you to pay towards the \$491,000 bill?

9 A. That was their recommendation.

10 Q. Okay. Plus you had the 53,000 in temporary
11 roofing. And so this January payment is the payment for
12 those mitigation and temporary roofing measures that were
13 taken back in September?

14 A. Yeah. I mean, based on that, it makes sense that's
15 what the payment would be for. I mean, it was a 2,000
16 overpayment like you said, though.

17 Q. We talked yesterday about the Encore contract for
18 \$1.3 million that's on this list of costs incurred and the
19 fact that that contract was entered into in December. You
20 recall that testimony?

21 A. I recall testimony, but I don't have any firsthand
22 knowledge of that contract.

23 Q. But again, you're here as Scottsdale and you know
24 Scottsdale had the contract?

25 A. Yeah. Just being clear. Yeah.

1 Q. Okay. No payment was made towards the Encore
2 December 2020 contract, \$1.3 million, until May of 2021.
3 I've already accounted for these other bills. This January
4 payment was for the mitigation. 29,000 is not towards 1.3
5 million. The \$1.1 million in May was the payment that was
6 made towards the Encore contract from December, correct?

7 A. I would be assuming because I wasn't -- like I
8 said, I didn't issue the payment. But based on normal
9 handling of the claim, I would assume that that's probably --

10 Q. Okay. I mean, just based on the way time works --

11 A. You're asking questions about --

12 Q. -- you couldn't have paid for it before it was --

13 A. Yeah. I wasn't the one that issued it so I
14 couldn't say 100 percent if that's what it was for, if there
15 were other things included in it or not.

16 Q. So if anything was paid for Encore, it wasn't paid
17 until -- I mean, even if we say -- this March payment may or
18 may not have been towards it, but it wasn't paid till March
19 and May?

20 A. I don't know. You're asking me to make
21 assumptions.

22 Q. The January payment was for mitigation. We just
23 went through that, correct?

24 A. The numbers match up, like you said. Like I said,
25 I'm not the one that issued the payment.

1 Q. I understand. And you would agree with me that you
2 didn't pay for a debt incurred in December before it was
3 incurred? You didn't pay for it in September or November?

4 A. I'm sorry?

5 Q. Look at the payments on your screen, please. The
6 September payment, we looked at that yesterday. That was a
7 \$250,000 advance that your boss said was for mitigation?

8 A. No, ma'am.

9 Q. Your boss said it was for mitigation.

10 A. That's your interpretation of her notes. I worked
11 with her for five years. It's an advance towards the
12 ultimate amount that's owed for the claim.

13 Q. Okay. Show you --

14 A. If it was for mitigation it would have been -- I
15 would have had a calculation that I would have done. I would
16 have documented how I made that calculation. It wouldn't be
17 a nice round number like that. I've done that before where I
18 say, "Oh, I disagree with their mitigation. I'm going to go
19 ahead and write up my own estimate based on what I know for
20 sure."

21 Q. Okay.

22 A. Then I issue an advance. You know, that's
23 something that has been done in less complicated claims. But
24 there would be documentation of a specific amount we were
25 paying. This is a round number to get money out the door at

1 the request of our insurance public adjuster.

2 Q. And let's talk about what happened with these
3 payments. We'll come back to the Encore thing. These two
4 payments, 250,000 and 218,192.53, that number -- I'm now
5 looking at your claims log at Page 2 from an entry dated
6 10/23. That number is the number -- that \$468,192.53. You
7 hired a building consultant on behalf of Scottsdale to go out
8 and inspect the property after Monte Jones went, correct?

9 A. That's correct.

10 Q. Monte Jones, you said yesterday he was the only
11 adjuster that ever went out to this property on behalf of
12 Scottsdale?

13 A. Yes, ma'am.

14 Q. This individual that came up with this number is
15 what you've called a building consultant, correct?

16 A. Yes, ma'am.

17 Q. His name is Mr. Collisson?

18 A. Yes.

19 Q. Mr. Collisson went out and he gave you an estimate
20 RCV. That's the replacement cost we talked about?

21 A. Replacement cost value, yes.

22 Q. \$600,087.78?

23 A. Yes.

24 Q. Some depreciation was applied and that's where this
25 \$468,000 number comes from, correct?

1 A. Yeah, the 466,491.

2 Q. Okay. The depreciation, again, we can do the math,
3 but it's 22.7 percent? You want me to do the math or do you
4 know that?

5 A. I don't know that number off the top of my head.
6 You can...

7 Q. (Calculator on ELM0 screen.) This cheap calculator
8 doesn't -- so 77.7 percent was paid so that gives us
9 22.3 percent depreciation.

10 A. Okay.

11 Q. Did you watch the math?

12 A. I did.

13 Q. You agree with the math?

14 A. I agree that you calculated the percentage of
15 depreciation compared to the replacement cost value
16 mathematically correct, yeah.

17 Q. And so these two payments, now, in September and
18 November represent the depreciated actual cash value that is
19 being paid towards the building?

20 A. That's correct.

21 Q. So once that November payment was made there was
22 actually zero dollars paid towards mitigation?

23 A. That's correct.

24 Q. Okay. Nothing was paid towards mitigation until
25 January?

1 A. Assuming your -- the 177 is mitigation and roofing,
2 then that would be correct.

3 Q. And now coming back to Encore, we've accounted for
4 those payments, two of which pre-existed the Encore contract.
5 So nothing was paid towards the Encore contract until at
6 least March and May of 2021?

7 A. I can't -- you're asking me to assume. These are
8 payments that were made after my handling of the claim.

9 Q. You don't have any reason to doubt that there were
10 any other payments made? Are you aware of any other
11 payments?

12 A. No.

13 Q. Before Scottsdale sells a policy of insurance to
14 someone like Mr. Odom they have the ability to go and inspect
15 the property, correct?

16 A. Yes.

17 Q. They have a right to do that before they sell
18 insurance?

19 A. I don't know if -- I don't know if it's a right;
20 but, I mean, a lot of times there is an inspection that's
21 done, you know, either early on when it's first insured or --

22 Q. You don't have any force -- you're not forced to
23 sell insurance to anyone, correct?

24 A. I don't know.

25 Q. Okay.

1 A. I'm not a salesman.

2 Q. You're aware that underwriting in this case did not
3 go do an inspection?

4 A. I am aware of that, yes.

5 Q. Your insurance policy also allows you to inspect
6 the property that's insured at any time?

7 A. I believe that's what it says.

8 Q. Okay. I want to show you --

9 MS. BROWN: I'm going to offer Exhibit 24.

10 MR. WOLFF: We don't agree. We object.

11 MS. WOLF: We have an objection, Your Honor.

12 THE COURT: Okay.

13 **BENCH CONFERENCE**

14 MS. BROWN: This is the exhibit we talked about in
15 chambers yesterday. We made the changes.

16 THE COURT: Right.

17 MS. BROWN: They're continuing to object to our
18 classification of there only being two payments. That's
19 not what this shows. I've put the payments in front of
20 the jury all morning.

21 THE COURT: You can use it. You can cross-examine
22 him about it and have him explain if there's further
23 payments.

24 MR. WOLFF: I think she just laid a foundation that
25 makes that inaccurate because they were paying the 250

1 and then there was another payment. This is trying to
2 suggest everything --

3 THE COURT: She just had an exhibit up there that
4 shows all the different dates of the payments.

5 MS. BROWN: I'm going to ask him --

6 THE COURT: I understand what you're saying. It's
7 a new payment. This is a total of all those payments.

8 MS. WOLF: It's just dated 1.7 payment 5/18.

9 THE COURT: Cross-examine him about it.

10 MR. WOLFF: Got it.

11 **PROCEEDINGS CONTINUED**

12 MS. BROWN: I'm going to offer Exhibit 24.

13 THE COURT: It'll be admitted subject to counsel's
14 objection.

15 BY MS. BROWN:

16 Q. So to help move us along I've summarized what we've
17 talked about yesterday and today. This is a timeline of
18 everything that you and I have talked about. September 15th
19 of 2020, four-volume estimate from Eaux's public adjuster,
20 Skyline, in the amount of \$2,196,188. You agree with that?

21 A. Yes, ma'am.

22 Q. Scottsdale's field adjuster, Monte Jones, told you
23 on September 22, 2020, he believed the loss was at least
24 1.5 million?

25 A. Yeah. Off the cuff, yes, ma'am.

1 Q. Okay. The only payment that was made within 30
2 days of either of those numbers was the \$250,000 advance,
3 correct?

4 A. Yes.

5 Q. And we looked at all the payments. There's no
6 other payment made within 30 days of either of those numbers,
7 your adjuster or Eaux's adjuster, correct?

8 A. I'm sorry. Can you say that again.

9 Q. This \$250,000 payment is the only payment that was
10 made within 30 days of you receiving the Skyline estimate?

11 A. Yes, ma'am.

12 Q. It's the only payment made within 30 days of Monte
13 Jones going to inspect the property?

14 A. Yes, ma'am.

15 Q. Okay. And just for clarification, the red line
16 across the top is where the policy limits are. I didn't tell
17 you that. Did you understand that's the \$2,035,000?

18 A. Yeah.

19 Q. As of January 18th, 2021 -- we went through these
20 yesterday and I changed this number just like I took the
21 2,000 off of this, too. But we went through the numbers and
22 the cost that Mr. Odom, on behalf of Eaux, had incurred as of
23 January 18th were \$2,031,893.50, correct?

24 A. I don't remember. If that's what -- I'm sorry.
25 Can you say that again.

1 Q. Yes.

2 A. It sounds like you're asking me what they incurred.

3 Q. As of January 18th of 2021, we went through all of
4 these costs, went through them tediously, dates, amounts --

5 A. Oh, yeah.

6 Q. -- that's that number, as of January 18th, 2021,
7 that's the number, correct?

8 A. Yes.

9 Q. Okay.

10 A. That's the number -- can you show the other sheet
11 again?

12 Q. Show them to you.

13 A. Okay. Yeah. Throwing me off because there wasn't
14 any dates on this so hard for me to say if this was as of the
15 18th or not.

16 Q. But you recall we went through all of them? I was
17 trying not to do it again.

18 A. Yeah, we went through them. Yes, ma'am.

19 Q. Okay. And as a summary, I understand we went --
20 again, even this morning we looked at all these payments that
21 Scottsdale made. But as of May 18, 2021 all of Scottsdale's
22 payments combined only equaled \$1,796,091, correct?

23 A. Yes. I assume the math's right. Yes, ma'am.

24 Q. Okay. I want to talk about some of Scottsdale's
25 defenses in this case. This claim started with what you and

1 I agreed yesterday was one of if not the worst natural
2 disaster to hit southwest Louisiana?

3 A. Yes, ma'am.

4 Q. You agreed that the property at 620 Esplanade was
5 insured under the Scottsdale policy that we looked at?

6 A. Yes, ma'am.

7 Q. And that it was damaged by the hurricane?

8 A. Yes, ma'am.

9 Q. Your insured, Mr. Odom, on behalf of Eaux Holdings,
10 hired a public adjuster to help him with the extensive damage
11 to the property insured by Scottsdale at 620 Esplanade,
12 correct?

13 A. Yes.

14 Q. And he submitted, in an effort to progress his
15 claim, get Scottsdale's insured property fixed, this
16 four-volume estimate from his public adjuster?

17 A. Yeah, he gave those to the independent adjuster.

18 Q. Now, during your handling of the claim, I've read
19 the claims file, you never suspected or accused Mr. Odom of
20 lying about anything, did you?

21 A. I've never spoken to Mr. Odom.

22 Q. Within Scottsdale, if you believe that a claim is
23 being pursued fraudulently, there's steps that you take to
24 escalate that to some other unit, a fraud unit, right?

25 A. Yeah. If there are indicators of fraud, then we

1 would escalate that to a different unit that handles those
2 investigations.

3 Q. And you had no indicators of fraud in this case,
4 did you?

5 A. On what date?

6 Q. Did you at any time have any indicators of fraud?
7 Because I didn't see in your claims notes where you ever
8 escalated this to a fraud unit.

9 A. No. No. I mean, there's a lot of inflated
10 damages. That's pretty common with a public adjuster. I
11 wouldn't -- we would handle it as part of our investigation
12 to determine what the damage was.

13 Q. Two things about that. You say it was inflated;
14 but the Skyline estimate was a lot closer to the actual cost
15 than the Grecco estimate, wasn't it?

16 A. Yeah.

17 Q. Okay. And a dispute about scope or cost isn't
18 fraud, correct?

19 A. A dispute over scope and cost, no, ma'am, it's not
20 fraud.

21 Q. Okay. You're aware, aren't you, that Scottsdale's
22 legal team in this case after Mr. Odom, on behalf of Eaux,
23 had to hire lawyers to progress his claim, they've now
24 accused him of that?

25 MR. WOLFF: Never --

1 THE COURT: Let's come over here.

2 BENCH CONFERENCE

3 THE COURT: I'm not -- that's --

4 MR. WOLFF: I haven't alleged fraud anywhere.

5 THE COURT: The only place he alleged it was in a
6 motion, I guess in a motion. But I don't think that's
7 proper, Ms. Brown, to bring that up with this witness
8 what the attorney has said. It's not evidence of
9 anything.

10 MS. BROWN: Well, the company has sought to void
11 the policy based on alleged misrepresentations; and
12 they're going to get up and --

13 THE COURT: Why don't you show him the document.

14 MS. BROWN: You said yesterday I couldn't.

15 THE COURT: No. About what?

16 MS. BROWN: The document where they tried to void
17 the policy.

18 THE COURT: I never said that. That was a
19 pleading. I want the company document, not some
20 pleading from the lawyer. Show me something --

21 MS. BROWN: That's a statement of a party.

22 THE COURT: No, it's not. Listen, I'm going to cut
23 through the B.S. with y'all on this. Okay. If you've
24 got a document in their claims file where they were
25 doing an investigation for fraud, show it to him. An

1 allegation by the lawyer, we all make that. You've made
2 an allegation they're in bad faith. You've got to prove
3 it. If he's made an allegation in an answer that --

4 MS. BROWN: He's going to get to ask Mr. Odom about
5 the allegation of bad faith.

6 THE COURT: Well, great; but he hadn't done it.
7 You're just trying to taint the jury pool right now with
8 that. Show me some proof.

9 MS. BROWN: Well, the problem --

10 THE COURT: Him making an allegation in the
11 pleading is not proof. It's not evidence. He didn't
12 have proof. I denied it. Hell, I didn't grant it.
13 Move on.

14 **PROCEEDINGS CONTINUED**

15 BY MS. BROWN:

16 Q. Mr. Lock, I believe you told me yesterday that once
17 suit was filed you were no longer involved in this claim. Is
18 that right?

19 A. That's correct. After the suit was filed the claim
20 was transferred to another adjuster.

21 Q. And you're aware suit was filed in December
22 of 2020?

23 A. Yes, ma'am.

24 Q. Okay. And at the time suit was filed the only
25 payments that had been made were the September and the

1 November payments, correct?

2 A. That's correct.

3 Q. I want to talk about the time between the November
4 and the December -- the November payment and your being taken
5 off the file. You recall Skyline Adjusting continued to be
6 involved in the claim after that November payment based on
7 Grecco?

8 A. Yes, ma'am.

9 Q. They sent you numerous e-mails in an attempt to
10 continue adjusting the claim. They disagreed with the Grecco
11 estimate and wanted to continue engaging to get their client
12 more money on the claim, correct?

13 A. Yes, ma'am.

14 Q. And you recall that after that November payment the
15 e-mails from Skyline to you went unanswered?

16 A. Yes, ma'am.

17 Q. Okay. And I took your deposition in this case and
18 we talked about that. We talked about the fact that out of
19 all the claims you've handled in your career you believe that
20 the majority of those claims were handled better than this
21 claim?

22 A. Yeah.

23 Q. Okay.

24 A. Because I didn't end up in a room like this at the
25 end.

1 Q. Well, you said that before you were in this room,
2 though.

3 A. Well, I'd never been deposed before we spoke. Your
4 deposition's the only one I've ever been involved in.

5 Q. You told me that you did not believe that this was
6 the highest level of claims service that Scottsdale could
7 provide?

8 A. That's correct.

9 Q. Okay. We talked about those e-mails and you said
10 that the normal practice would have been to respond to them?

11 A. Yes, ma'am.

12 Q. Okay. And that didn't happen in this case?

13 A. No, it did not.

14 Q. And you told me there were a variety of reasons.
15 You said it was around the holidays. It was around
16 Thanksgiving. It was -- as we said in the jury selection, it
17 was a busy year for disasters.

18 A. Yeah. I think there was an e-mail that came in the
19 afternoon before Thanksgiving. So when you talk about the
20 timeframe to respond to it, the afternoon before a four-day
21 holiday weekend, you know, that's days that you're not in the
22 desk working so --

23 Q. And in fairness, you never respond to that e-mail?

24 A. I didn't. That's right.

25 Q. And when I asked you, you were honest and you said

1 if things that -- could see a lot of improvement and you said
2 specifically the timeliness of things; do you recall that?

3 A. Yes, ma'am.

4 Q. And as you and I talked about how this could have
5 been done better because of all the timeliness issues, you
6 told me that if you had had more resources or more of you to
7 go around you would have gotten this handled quickly and
8 efficiently. You used that phrase twice. You would've done
9 it quickly and efficiently. You said there was definitely a
10 shortcoming in this claim. You remember that?

11 A. Yes, ma'am.

12 Q. So you attribute at least in part the bad claims
13 handling in this case to a lack of resources?

14 A. I would attribute my lack of timeliness to a lack
15 of resources.

16 Q. Okay. Are you familiar with the concept of float?

17 A. In what context?

18 Q. In an economic context. So you understand that
19 Scottsdale and its parent company, Nationwide, invests the
20 premiums that they receive when they sell policies and that
21 they make money on those investments and that interest is
22 called the float. Are you familiar with that concept?

23 A. I've never heard that expression before; but I know
24 how insurance companies make money off of investments, yes.

25 Q. So the longer an insurance company holds onto

1 money, the more money it's making on the money, correct?

2 A. That's -- yeah. I mean, if you hang onto money
3 that's in an interest bearing account, the longer it's in
4 that account, the more money you're going to have. From a
5 claims handling standpoint, the longer a claim is open, the
6 more it costs the company. So there's no benefit to dragging
7 anything out.

8 Q. But are you familiar with how much money Nationwide
9 made on its investments in 2020 alone?

10 A. I'm not.

11 Q. Have you been to the Nationwide website where they
12 actually advertise what their investments are and what their
13 return on those investments are?

14 A. I don't. I mean, I've heard those numbers in
15 meetings but I don't remember anything specific.

16 Q. And those numbers are in the billions, aren't they?

17 A. I think so, yes.

18 MS. BROWN: I'm going to offer -- I don't think
19 these are -- we're going to offer Exhibits 113 and 114.

20 THE COURT: You want a sidebar?

21 MR. WOLFF: Yeah, please.

22 **BENCH CONFERENCE**

23 THE COURT: Before we get to that, on the other
24 issue, I think the proper question, if you want, is
25 simply to ask did this company ever open a fraud

1 investigation on this claim and, boom, end of story --

2 MR. COX: You asked that, didn't you?

3 THE COURT: -- if you ask that. What I was telling
4 you is what the lawyers have alleged in some pleading is
5 not evidence. That's just Mr. Wolff. I don't know what
6 he was doing when he made that claim. But that's to
7 clarify that while you've got him on the stand. If
8 you've asked that, you've asked it. He can answer yes
9 or no. That's relevant. All right.

10 MR. WOLFF: This was never provided. This is the
11 first I'm hearing about it today. This is Nationwide.
12 It's not Scottsdale. And this is --

13 MS. BROWN: These are from their website.

14 MR. WOLFF: So what.

15 MR. COX: Same as you asking about our client's
16 resources --

17 MS. BROWN: Yeah, I think --

18 MR. COX: -- what's he making on the building.

19 MR. WOLFF: I wasn't allowed to --

20 MS. BROWN: -- he opened the door in opening of --

21 MR. WOLFF: I was not allowed to get into the
22 details of the investments of Mr. Odom or Eaux
23 Holdings --

24 MS. BROWN: Well, let me say in opening --

25 THE COURT: Wait, wait, wait. DD's going to come

1 across this bench in a minute if we don't talk one at a
2 time. Mr. Wolff, go, your objection.

3 MR. WOLFF: I was not allowed to get into details
4 of finances of Eaux Holdings. It was very, very limited
5 because you said it doesn't matter on the claim.

6 THE COURT: I don't think it's relevant what he has
7 in his bank account.

8 MR. WOLFF: Same thing here, and he's already given
9 the answer that on a claims handling perspective it
10 costs more to keep it open. What Nationwide as a parent
11 company made has nothing to do with this claim. It's
12 designed to prejudice the jury in the sense that, "Oh,
13 well, they make billions of dollars. They should" --

14 THE COURT: Here's the thing.

15 MS. BROWN: May I respond?

16 THE COURT: You may. Go ahead.

17 MS. BROWN: Two things. I believe in opening he
18 said that Mr. Odom was sitting on gold. I wrote it
19 down.

20 THE COURT: He was sitting on gold because he had a
21 long-term government tenant.

22 MS. BROWN: And he said he has many, many
23 businesses and properties. He did open that door. This
24 witness also opened the door by saying if he'd had more
25 resources. Has nothing to do with prejudicing them.

1 Nationwide could have paid a couple more Adam Locks. He
2 said if he'd had more of him to go around or more
3 resources he could have handled this claim better.

4 MR. WOLFF: That point's already been established
5 that it wasn't enough resources. He admitted it. What
6 else do we need?

7 THE COURT: Listen --

8 MR. COX: We can withdraw those two --

9 THE COURT: I wasn't going to let this in anyway.

10 MR. COX: But in fairness, he shouldn't be able to
11 go into how much Mr. Odom was making on --

12 THE COURT: He's not.

13 MR. COX: He said in opening he was making 15,000 a
14 month. I mean, he shouldn't be able to go and --

15 THE COURT: Opening statements are just what they
16 are. It's not evidence. And I'm not going to allow him
17 to ask Mr. Odom how much he's making off the building,
18 all that stuff --

19 MR. COX: Fair enough.

20 THE COURT: -- because, again, we're here on a
21 property damage claim. I don't think there's -- there's
22 no B.I. claim in this thing.

23 MS. BROWN: No.

24 THE COURT: So it's purely on property. It's not
25 going to be relevant. He probably shouldn't have said

1 it. You know, you've already got him to admit they got
2 billions. Hell, to be honest with you, I was waiting
3 for you to object to that.

4 MS. BROWN: I was, too, Your Honor.

5 MR. WOLFF: I was going to. I didn't get --

6 THE COURT: This is just a little bit outside the
7 scope.

8 MR. WOLFF: Thank you.

9 **PROCEEDINGS CONTINUED**

10 THE COURT: Thank you for your patience, ladies and
11 gentlemen. Just the nature of it. It's not TV law. We
12 don't get the case, the trial, and everything in one
13 hour.

14 MS. BROWN: I have no further questions for this
15 witness.

16 THE COURT: Very good. Mr. Wolff, obviously you
17 have some cross-examination or are you going to take him
18 later on your case in chief?

19 MR. WOLFF: If I could, I'd like to do it now so we
20 can move this along.

21 THE COURT: Let him go ahead. Ladies and
22 gentlemen, y'all okay? Keep going right now? Want to
23 make sure. Anybody needs to go to the restroom, let me
24 know. If anyone does get to a point where we've gone
25 too far, just raise your hand. This is not an endurance

1 test. I don't want you to be uncomfortable.

2 Yes, Mr. Wolff, please proceed. You need that
3 stuff right there? You want her to remove it to get it
4 out of your way?

5 MR. WOLFF: I don't need the calculator, but I'll
6 leave that there.

7 **CROSS-EXAMINATION**

8 **BY MR. WOLFF:**

9 Q. Good morning, Mr. Lock.

10 A. Morning.

11 Q. I'm going to try to be brief. You were the initial
12 desk adjuster on this file involving Eaux Holdings' building
13 at 620 Esplanade?

14 A. That's correct.

15 Q. And early on in the process, I think in September,
16 you opened the file?

17 A. Yeah. It was initially opened and an independent
18 adjuster assigned. And then once that process had kind of
19 been handled, you know, by some other folks, then it came to
20 me for handling.

21 Q. Okay. Well --

22 A. For all intents and purposes, I'm the only adjuster
23 that's ever worked the file between that time in August to
24 December, yeah.

25 Q. To be clear, before any of the lawyers or any of

1 that kind of thing, the storm was August 27th?

2 A. Yes, sir.

3 Q. We'll see that Mr. Major, the public adjuster, was
4 hired on the 28th. And then on the 29th in this --

5 MR. WOLFF: I'm sorry. This is Exhibit D-8, the
6 e-mail from Skyline.

7 MR. COX: I'm sorry. I didn't hear you.

8 MR. WOLFF: D-8, e-mail from Skyline.

9 MS. BROWN: No objection.

10 MR. WOLFF: Thank you.

11 BY MR. WOLFF:

12 Q. So on the 29th of August, right there, there was an
13 e-mail from Skyline Adjusters two days after the storm
14 requesting 250,000?

15 A. Yes.

16 Q. And then you got on the file, got this, got it
17 valued initially. And then I'm going to show you what is
18 marked as D-173 and ask if you -- September 24th of 2020. Do
19 you recognize this letter?

20 A. Yes.

21 Q. And it says -- well, read the highlighted portion.

22 A. "Please be aware that the company is continuing to
23 investigate in good faith coverage for the claim as well as
24 the final amounts owed for the claim."

25 Q. And then it also says, the other section?

1 A. The other highlighted?

2 Q. Yes, sir.

3 A. "The company is making this advance payment in good
4 faith reliance upon the claims that you have made, the
5 presentation that you have made to the company in support of
6 that claim, and your request for an advance payment."

7 Q. And just so that we see, that's your signature on
8 the second page?

9 A. That is, yes, sir.

10 Q. So why did you make that advance?

11 A. Well, it was requested and we had enough
12 information at that time to know that the claim was going to
13 be at least that much so we went ahead and got it out the
14 door so they could get the ball rolling on repairs, or
15 towards the claim anyway.

16 Q. Okay. So in the context of this kind of claim,
17 they got the advance you -- after the request you made the
18 payment. What was the next step in the claims handling
19 process?

20 A. Figure out what we owe for the repairs. This
21 was -- the advance was issued, I think like we talked before,
22 after I had a telephone conversation with Monte and after
23 they'd sent us some initial bills. You know, from that
24 process forward, you know, figure out what we owe, figure out
25 what it's going to take to put that building back the way it

1 was.

2 Q. So can you explain to the jury what replacement
3 cost value is and what actual cash value is? I'm going to
4 show you the policy pages, and I think this is your policy.

5 MS. BROWN: It's plaintiffs 106.

6 MR. WOLFF: Plaintiffs 106.

7 BY MR. WOLFF:

8 Q. Can you tell us what that is in the policy?

9 A. Yeah. You want me to read it?

10 Q. Well, explain this language. I don't want you to
11 interpret it. What is replacement cost value and what is
12 actual cash value?

13 A. Replacement cost is where we calculate the cost of
14 repairs without any application of depreciation. So that's
15 what it costs to put the building back the way it was without
16 applying any kind of depreciation to that figure.

17 Q. And what is depreciation?

18 A. Depreciation is, you know, when things aren't worth
19 as much as they used to be because of their age or condition.

20 Q. Okay. And so that number, you take the replacement
21 cost value less the depreciation, that gives you the actual
22 cash value?

23 A. That's correct.

24 Q. You pay that first?

25 A. Yeah. So what the policy says and what we do is

1 that initially we're going to pay the depreciated value or
2 the actual cash value, to use the term in the policy. We're
3 going to pay that up front. And then once the repairs are
4 done, you know, we would issue out the additional amounts
5 that were withheld from that initial payment.

6 Q. Just to be clear, the replacement cost value is the
7 replacement cost for the damages to the building caused by
8 the storm --

9 A. That's correct.

10 Q. -- or by some loss?

11 A. Yeah. Obviously, yeah, it includes the damages
12 caused by the storm or the covered damage, yeah.

13 Q. And then you would apply depreciation to that
14 portion of asserted loss?

15 A. Yeah, but not in a lump amount. So when we prepare
16 an estimate we use the Xactimate estimating software. And
17 the way that Nationwide does it is that we only apply
18 depreciation to those items in the building that would
19 normally have to be maintained or kept up with during the
20 life of the building. So paint, floor coverings, things like
21 that, we apply depreciation to the material cost on those.
22 Some companies apply depreciation way more than that, but
23 that's how Nationwide does it. We have the computer system
24 set up to only apply depreciation in certain ways because
25 those are the ways that are most beneficial to our customers.

1 **Q.** So it's important to know if there are problems
2 with the building in terms of pre-existing leaks, damages,
3 rot, and so forth and so on; is that correct?

4 **A.** Yeah. Yeah. We need to know the condition -- the
5 age and condition of the building so we can calculate how
6 much those particular parts of the building would have been
7 worth at the time. It's usually done on -- life expectancy
8 and condition is how it's usually calculated.

9 **Q.** This is the portion of that policy that talks about
10 we will not pay for loss caused by or resulting from wear and
11 tear not related to the storm in this case, correct?

12 **A.** That's right. Yeah. The policy doesn't pay for
13 wear and tear, rust, corrosion.

14 **Q.** So you need to know -- if it's an older building,
15 you need to know if there were problems with the building as
16 part of the investigation?

17 **A.** Yeah. Yeah. I mean, we need to know the condition
18 it was in so that -- we need to know the age and condition so
19 we can calculate that depreciation but also that we can
20 separate out damage that's related to it just being an old
21 building compared to damage that occurred from the storm.

22 **Q.** So we've seen this for the last couple of days,
23 this big stack of documents here. What did you understand
24 this stack of documents to be when you got it from Skyline?

25 **A.** Skyline's estimate and their photos.

1 Q. So did that estimate include any depreciation?

2 A. It did not.

3 Q. So Skyline did not produce to you an actual cash
4 value request from any of this here, this estimate that they
5 gave you?

6 A. No. There's not a way to calculate the actual cash
7 value based on what they sent.

8 Q. Well, okay. So they sent this big stack of
9 documents. They knew it was an actual cash value component
10 that they had to address first, and there's nothing in all of
11 this to tell you what actual cash value is?

12 A. That's correct. There's nothing in those documents
13 that says what the actual cash value is.

14 Q. And Xactimate is a tool that is used to help make
15 that calculation?

16 A. It's a software program, yes.

17 Q. Was there any evidence that Mr. Major had used
18 Xactimate to calculate actual cash value when he submitted
19 all this to you?

20 A. No. He provided an Xactimate estimate. The
21 estimate that he used, I recognized the format. I worked in
22 that system for over ten years. I recognized the format. It
23 was created using Xactimate, but they didn't have any actual
24 cash value amounts on there.

25 Q. So they didn't use any effort in the Xactimate

1 presentation here to give you the actual cash value; this is
2 correct?

3 A. That's correct.

4 Q. So on this replacement amount, and that was just
5 the building, 2.1?

6 A. Roughly, I think.

7 Q. This is the exhibit they made. I think you've
8 looked at it. So this public adjuster estimate right there,
9 that 2.196, roughly 2.2, that was just for the building?

10 A. That's what they said, yes.

11 Q. Okay. And then there was also that All Clear
12 mitigation. We'll talk about that briefly in a moment. That
13 was heading towards 500,000, 490,000?

14 A. Yeah, 491, I think.

15 Q. Then you had the temporary roofing, right?

16 A. Yes.

17 Q. So all of that was really close, about 2.75 or 2.8?

18 A. That's correct.

19 Q. Why didn't you just give them the policy limits
20 right then and there?

21 A. I didn't have enough information to know whether
22 that was a good estimate or not.

23 Q. Why not?

24 A. Well, I mean, I had his photos. I had their
25 digital copies of photos we saw the other day where they put

1 them up there and they were sideways. They weren't labeled.
2 It was hard to tell exactly what it was a picture of. So I
3 had digital copies of those and I had their line item
4 estimate which, just a cursory look at it, there was a lot of
5 things in there that I couldn't verify from the photos that
6 they provided.

7 Q. In fact, we're going to talk about that 2.0 number,
8 as to whether that was actually paid. But according to the
9 number they put to you, the 2 million, you can't verify those
10 today; is that correct or not?

11 A. I don't have any way of verifying it, no.

12 Q. So, in any event, if we look at this one, if you
13 add the temporary roofing and the All Clear, it's really
14 about 2.75. And they're saying it really only came to 2 even
15 by their own numbers.

16 A. Yeah. Yeah, that sounds right.

17 Q. All right. So 2.75 is a lot more than the 2
18 million they're talking about right now?

19 A. It is.

20 Q. And we've seen the payments. Scottsdale paid 1.75,
21 1.796, correct?

22 A. Yes, sir.

23 Q. So when these claims are first presented, I think
24 you said, sometimes you get claims asserted by a public
25 adjuster that are high or inflated?

1 A. Yeah. Yeah. That's pretty common.

2 Q. And so you need to investigate, and did you do
3 that?

4 A. We did, yeah. I mean, I got the -- I hired a
5 building consultant. I hired somebody who's an expert in
6 construction hoping that they would be able to get either
7 verification on what the public adjuster had provided or, you
8 know, some other number that they could support.

9 Q. First off, did you talk to Mr. Major or Skyline on
10 the phone at any time in this early part of the process?

11 A. I don't recall. It was mostly e-mails, I think.

12 Q. Okay. At any time did Mr. Major or anyone with
13 Skyline tell you that they had a conversation with Eaux
14 Holdings, through Mr. Odom, and that they felt -- Skyline
15 felt that this building was subject to heavy depreciation
16 because of its age?

17 A. They never said it was subject to depreciation.
18 They said it was a great building, in perfect condition, to
19 pay the claim and be done with it. That was kind of the gist
20 of my communications from them.

21 Q. We're going to look in a little detail -- I promise
22 I'm going to move this along. But just to be clear, early on
23 no one told you from the public adjuster side or Mr. Odom or
24 Four-0 that they knew there were problems with this building
25 before the storm?

1 A. No. They were saying it was a great building in
2 great condition.

3 Q. And did you have a question as to how that could
4 be? I mean, did you have a problem or concern?

5 A. Yeah. Yeah. I mean, at one point, I think we may
6 have touched on it, there was this name Four-0 and then Eaux
7 Holdings. At one point they updated the name in the
8 insurance policy. And so when I see that I want to make sure
9 that any checks that I cut are going to be to the building
10 owner, right, the people on record, you know. So I went
11 through and I checked the county website and --

12 Q. Going to stop you. It's parish here in Louisiana.

13 A. I'm so sorry. That is right. I checked the
14 website with the property records, the parish website, and
15 just to make sure who the owner was, see if there's any liens
16 recorded there. And they had a couple of pictures on the
17 website and there was cracks in the side of the building, you
18 know, kind of made it look like there was a bunch of issues
19 with the exterior of the building before the storm.

20 So that raised some questions with me, you know, at
21 least for that part of the claim, you know, immediately.
22 Okay. Well, I know on this estimate they've got this huge
23 number, like, per square foot and it accounted for a big
24 chunk of their estimate. They've got this huge number per
25 square foot for the exterior walls. Yeah, I'm seeing some

1 cracks and dings and stuff on these outside walls and
2 windows; but I can't tell if that's enough to warrant
3 replacement of the entire exterior wall system on this
4 building or not because the way I'm seeing it is there's
5 cracks and stuff all over it before. So that was a big
6 question. We needed to sort that out, figure out if
7 something could be repaired or if it had to be completely
8 replaced.

9 Q. So, to be clear, I'm looking at this big stack of
10 documents from Skyline, the public adjuster, he was providing
11 an estimate that included a complete replacement of the
12 outside of all the paneling, the areas where you saw evidence
13 on an official website where there was cracking before the
14 storm?

15 A. That's correct.

16 Q. Now, you indicated you hired an expert. Would that
17 be Grecco?

18 A. Yes, sir.

19 Q. And why did you hire Grecco?

20 A. Grecco's a firm that we've used. It's on our list
21 of approved vendors. You know, I send assignments to them.
22 And, you know, I think in my instructions to them I said,
23 "Hey, you know, this is the kind of building that we're
24 dealing with." You know, we need to make sure that there's
25 somebody involved that has some experience, you know,

1 estimating or in construction for the type of building. It
2 was Homeland Security. They had some additional security
3 requirements built into their buildout on the interior.

4 Q. And so that was Mr. Collisson with Grecco?

5 A. Yes, sir.

6 Q. And he went out and performed another inspection?

7 A. Yes.

8 Q. I got ahead of myself. Monte Jones. We've heard
9 that name, Monte Jones. He went out early. Were there
10 problems with his ability to inspect in the early phases?
11 Can you tell the jury about that.

12 A. Yeah. I mean, so when I talked to him on the phone
13 he said --

14 Q. I'm sorry. To whom?

15 A. Monte Jones. When I talked to Monte Jones he said,
16 "Hey, I'm out here. Public adjuster's telling me all of this
17 stuff." I think a lot of my note that I made was information
18 that he was relaying from the public adjuster. But anyway,
19 he said, "This is everything that I'm being told about the
20 building. You know, it's beyond what I can do. You know, I
21 recommend that you hire a building consultant, construction
22 consultant."

23 Q. Was there electricity in the building at the time
24 when he went out there?

25 A. He said that there wasn't. He wasn't able to do a

1 good inspection.

2 Q. And so you hired Grecco, particularly
3 Mr. Collisson. And I'll show D-16. This is a part of the
4 report, the initial report from Mr. Collisson. Do you recall
5 seeing that in September?

6 A. I do remember it, yes, sir.

7 Q. This was an initial report from Mr. Collisson?

8 A. That's correct.

9 Q. So it's starting to show that the concerns you had
10 about the age of the building were real?

11 A. Yeah.

12 Q. And so now you have to start doing what we'd talked
13 about. You take an RCV and then start depreciating it and
14 figure out what the actual cash value is?

15 A. Yeah, but also figuring out what the scope of
16 repairs to be. You know, if there's a bunch of pre-existing
17 damage there, you know, the insurance policy doesn't pay for
18 a bunch of damage that's from rot, deterioration. So we need
19 to figure out what was caused by the storm and what was there
20 before so we can do our best to put the building back the way
21 it was.

22 Q. And can you read into the record what Mr. Collisson
23 said in the highlighted versions there.

24 A. It says, "The extent of the deterioration would
25 suggest that it has been occurring for a long time. This is

1 seen from the amount of missing plywood sheathing and rust on
2 the studs."

3 Q. So you had an understanding there was leaking from
4 the outside of the building into the interior?

5 A. Yeah. I think his report says that it was leaking
6 through the caulking between the seems of the concrete panels
7 and getting in.

8 Q. Before the storm?

9 A. Yeah. Occurring for a long time, yes, sir.

10 Q. And so -- and I apologize. Again, this is D-16.
11 The date of that is September 27th?

12 A. Yes.

13 Q. So you have a concern about the pre-existing -- the
14 amount of pre-existing damage, the amount of depreciation, so
15 you're continuing investigation on that?

16 A. That's correct.

17 Q. So I'm going to show you, this is D-31, the Skyline
18 e-mail of November 23rd. This is November 23rd. This is
19 from Skyline to you. Do you recognize that e-mail?

20 A. I do recognize it.

21 Q. So that's Skyline talking to you and addressing one
22 of the concerns you had about this pre-existing problem?

23 A. That's right.

24 Q. And would you read into the record what Skyline
25 told you.

1 A. The highlighted area?

2 Q. Yes, sir.

3 A. It says, "I understand the building was well
4 maintained pre-storm."

5 Q. Did that appear consistent with what you were
6 seeing?

7 A. No, it's not consistent with what I was seeing.

8 Q. And, also, they note there -- they thank you for
9 update in getting the undisputed issues, and that's the
10 250,000 that you sent over?

11 A. Yeah. I think by this time I'd also issued a
12 second payment.

13 Q. So it says, "Appreciate you looking into
14 depreciation." So you were still trying to find out what the
15 number ought to be --

16 A. Yeah.

17 Q. -- in November of -- November 23rd of 2020?

18 A. Yeah. Yeah. I wanted to go through the estimate
19 from Mr. Collisson, make sure that he hadn't applied any
20 extra depreciation that we don't do. He works for a lot of
21 different companies who all do those things differently. So
22 part of what I wanted to do is make sure that it went with
23 our guidelines, the way we like to pay our customers.

24 Q. All right. Now I want to show you a portion of
25 your note. I think it's already introduced. You know what

1 number? They're going to get the number so we have it in the
2 record.

3 MS. WOLF: P-27.

4 BY MR. WOLFF:

5 Q. P-27. This is the note. So we'll go ahead and use
6 theirs so we don't add a bunch of paper. Can you read the
7 highlighted portion there, please.

8 A. "Of note, \$616,317.41 of the public adjuster's
9 estimate is for exterior wall cladding which is a
10 cementitious panel at \$53 per square foot. This price seems
11 very high. When I pulled tax record to confirm the owner of
12 the building I noted that there were a few overview pictures
13 in online statement that showed cracking on the exterior
14 cladding prior to this loss. It's possible that some of the
15 damage to the wall cladding is unrelated."

16 Q. All right. So you had to start investigating there
17 to determine what was new, what was old?

18 A. That's correct.

19 Q. And you couldn't tell from this big estimate. They
20 didn't give you what they knew, if anything, about the
21 pre-existing problem?

22 A. That's correct.

23 Q. And they had -- in this estimate here they had a
24 number in there that included \$261,500 for market conditions
25 if incurred. What's that?

1 A. I have no idea.

2 Q. Just an extra 261,000?

3 A. That's -- with it being described that way, it
4 certainly looks like a big extra amount they were throwing
5 in.

6 Q. And so into November you are still trying to get
7 the extent of the pre-existing damage that you knew from your
8 investigation on the website. Mr. Collisson says there's
9 issues here. But then Skyline's telling you nope, it was
10 well maintained?

11 A. That's what they're saying, yes, sir.

12 Q. Okay. Have you ever seen this document? And this
13 is D-61.

14 A. I've never seen this.

15 Q. Okay. I'm not going to ask you all the details,
16 but this was an inspection report relating to that building.
17 When that \$2 million investment was made, this is the
18 inspection report. Did anyone ever tell you that they had an
19 inspection report?

20 A. No.

21 Q. Did anyone ever tell you that this inspection
22 report had a number of recommendations relating to major and
23 immediate concerns?

24 A. No one told me that.

25 Q. So no one told you that there were problems with

1 the roll roofing, the tar roofing, the tar rock roofing, the
2 roofing in general?

3 A. No, no one ever told me that.

4 Q. No one ever told you that there were
5 recommendations for evaluation and repair and replacement by
6 a licensed contractor for some of the roofing before the
7 storm?

8 A. Say that again.

9 Q. Before the storm, were you told that there were
10 recommendations to get this roof fixed?

11 A. No, we weren't made aware of that.

12 Q. Did you know that before today?

13 A. No, sir.

14 Q. Did they tell you that there was a recommendation
15 for evaluation by a licensed contractor to repair or replace
16 the exterior siding that you were talking about before the
17 storm?

18 A. I'm sorry. Say it again.

19 Q. Did anyone ever tell you that before this storm
20 there were recommendations made to Eaux Holdings that a
21 licensed contractor should go out there and evaluate and
22 repair and replace exterior siding?

23 A. No, they never told us that.

24 Q. I take it, then, they didn't tell you that there
25 were moisture stains before the hurricane and there were

1 recommendations to evaluate and treat for fungal growth
2 before the storm?

3 A. They didn't tell us that, no. I did see evidence
4 of some of that in the pictures, though.

5 Q. Would that kind of information have been helpful in
6 your evaluation of the claim and timely payment of the claim?

7 A. Yes.

8 Q. Why?

9 A. Well, because we have to do all this work to figure
10 out what was there before the hurricane, what was there after
11 the hurricane, figure out which damage happened first, which
12 damage was overlapping, what the cause of the prior damage
13 was, the cause of -- basically we've got to separate it all
14 out, figure out what's overlapping, figure out what the
15 condition of the building was in. I mean, there's a whole
16 lot there that would have been helpful to know, I guess,
17 earlier on.

18 Q. Well, to be clear, there's been talk about the
19 duties of an insurer. Most certainly an insurer has duties.
20 You would agree that payment of the claim per the contract is
21 a top duty?

22 A. It is.

23 Q. To do that, though, you need information, right?

24 A. That's correct.

25 Q. And that's supposed to be -- to get fully apprised

1 you need full disclosure?

2 A. That's correct.

3 Q. And you can tell now just from what we're seeing
4 here that you did not get full disclosure?

5 A. Yes, sir.

6 Q. Did the fact that you had to keep asking and you
7 were getting those answers, did that complicate the claim
8 handling in any way?

9 A. Yeah. I mean, it -- when you get information
10 that's conflicting, I mean, you know, you look at a picture
11 that shows these spiderweb looking cracks on the side of a
12 building and then you get somebody else telling you, hey,
13 building was in great shape, you know, there's no issue here,
14 just pay the claim, you know, you feel like you're kind of
15 getting rushed through the process, you know, and you need to
16 stop and say, no, we need to really figure out what's going
17 on here so we can make sure that we pay what the insurance
18 policy owes, which is to put it back the way it was.

19 Q. So if you had all the information early on you
20 would have been in a position to act earlier?

21 A. Yeah.

22 Q. And you never got some of this information during
23 the entire claims handling process?

24 A. That's correct.

25 Q. And did it also take time away from the claim

1 handling you had to do when you had to do the calculations
2 and the --

3 A. Yeah. You kind of end up chasing your tail a
4 little bit.

5 Q. And we talked about, in general, the interaction
6 with the public adjuster. There was some talk about the
7 property. They needed to take down this exterior cladding.
8 Do you recall that?

9 A. Yeah. At one point they sent me an e-mail that
10 said, "Hey, we're going to start ripping the walls off of
11 this thing next week. You better start making some choices."
12 I mean, that's basically what my interpretation of their
13 e-mail was.

14 Q. And that was in October?

15 A. I think, yeah, around the very beginning of
16 October.

17 Q. So Skyline is representing to you that in October
18 the contractor was ready to go, start tearing down these --
19 the siding and to get going on the project?

20 A. Yeah, they made it sound like work was going to
21 start the following week.

22 THE COURT: Mr. Wolff, I'm sorry to interrupt you
23 but a couple of our jurors need a break. It's 11:00.
24 We need to take a short break.

25 MR. WOLFF: Sure.

1 THE COURT: I'm sorry to interrupt your flow here,
2 but I was trying to find a good place to stop you for a
3 few minutes.

4 MR. WOLFF: I'm just rolling. I'll get it done as
5 soon as we're ready.

6 THE COURT: Okay. We're going to take about a ten
7 minute break. I'm sorry, ladies and gentlemen. We'll
8 take a quick restroom break. All rise for the jury.

9 (Jury exits courtroom.)

10 THE COURT: Okay. We'll be at recess for ten
11 minutes.

12 (Recess is taken.)

13 THE COURT: You've been showing some exhibits to
14 the jury that have not been admitted into evidence, I
15 think. Isn't that right, Lisa?

16 MS. LACOMBE: Yes, sir.

17 THE COURT: You need to get them admitted into
18 evidence before you publish to the jury. That was an
19 oversight on my part. I should have stopped you. I'm a
20 stickler for this.

21 MR. WOLFF: Yeah, that's my bad.

22 THE COURT: No, no. That's okay.

23 MR. WOLFF: Thank you.

24 THE COURT: It's my bad. It's my job to monitor
25 this thing. They didn't object. I was just kind of

1 letting you go along. It's no big deal. It's just a
2 technicality. All you got to do is let's just get these
3 that you've already shown really quick.

4 MR. WOLFF: Wait for the jury to do this?

5 THE COURT: Yeah. Let's just go ahead -- is there
6 any objections to any of the ones he's shown? Read them
7 off there.

8 MS. LACOMBE: D-8. You offered no objection.

9 MS. BROWN: No objection.

10 MS. LACOMBE: D-173 is an e-mail.

11 MR. WOLFF: No, no. It's actually -- 173 is the
12 letter to Jade Bentz at Skyline from Adam Lock.

13 MS. LACOMBE: Is it in e-mail form?

14 MR. WOLFF: It's a letter.

15 MS. BROWN: And there's no objection to 173.

16 MS. LACOMBE: Thank you. D-16, the report.

17 MR. WOLFF: D-16, yeah, that's the Collisson
18 report.

19 MS. BROWN: No objection.

20 MS. LACOMBE: D-31, an e-mail dated 11/23/20.

21 MS. BROWN: No objection.

22 MS. LACOMBE: D-61, a photo and inspection report.

23 MS. BROWN: I do have an objection to D-61, and
24 that one went up before I --

25 THE COURT: What is it?

1 MS. BROWN: It's the inspection, the prepurchase
2 inspection report. The witness said he never saw it so
3 I don't think he's the right guy to get it in.

4 MR. WOLFF: I'm not offering it. I'm going to ask
5 was he advised of these issues and then I'm going to lay
6 the foundation, put it in later.

7 MS. BROWN: Okay.

8 MR. WOLFF: I'm not offering it right now.

9 MS. BROWN: It's not offered.

10 MR. WOLFF: Well, no. He can't authenticate it.
11 It's the same --

12 THE COURT: That's the reason I'm a stickler for
13 let's get the things in evidence before we publish them
14 to the jury --

15 MR. WOLFF: Okay.

16 THE COURT: -- you know, because until it's
17 properly foundation laid, relevance established, all
18 those good little things we learn in our codes of
19 evidence are done, I don't want it shown to the jury.

20 MR. WOLFF: Fair enough. So that we know, is there
21 an objection other than authenticity on the
22 pre-inspection report? We're right where we were --

23 MS. BROWN: I don't know out of context. I mean,
24 it depends on when and how you use it.

25 THE COURT: This is why I don't like omnibus

1 motions in limine because these things are very fluid
2 and may not be admissible for one thing but certainly
3 could be admissible for another if the foundation's
4 properly laid. Why don't we just cross that bridge when
5 we get to it and you make your contemporaneous objection
6 at that time based on how he's presenting it and how
7 he's going to do it. Court's not mad. Just want to
8 remind everybody let's get our things in evidence before
9 we show them to the jury because we don't want to show
10 them something that I may ultimately rule is
11 inadmissible and they've seen it. It's not really fair
12 to them. It's okay.

13 MR. WOLFF: Well, same thing with this on the
14 inspection -- I mean, on the estimate. The inspection
15 report is a fact and it's very pertinent to this. So I
16 didn't offer the guts of it no more than she offered
17 this, but the fact of it is a different issue.

18 THE COURT: I think you asking the question have
19 you seen this pre-inspection is a perfectly fine
20 question. It's a foundational question. I'm assuming
21 you're building the foundation.

22 MR. WOLFF: Yes, sir.

23 THE COURT: The fact that it exists is okay. The
24 actual document in evidence, showing to the jury, not
25 yet. We're not there. It's premature.

1 MR. WOLFF: That's why I didn't show it to them,
2 but I will take care of housekeeping as we move along.
3 I was trying to get it over with.

4 THE COURT: Great lesson for all our young
5 attorneys here on our rules of evidence. I'm a big
6 proponent of that. It's actually a hard class in law
7 school; but actually, it's very interesting, I think.
8 Okay. Let's bring our jury in.

9 (Jury enters courtroom.)

10 THE COURT: You may proceed, Mr. Wolff.

11 MR. WOLFF: All right. Your Honor, housekeeping.
12 I should have been keeping up with this. We move to
13 offer, file and introduce D-8 which is the request for
14 the advance.

15 THE COURT: Any objection?

16 MS. BROWN: No objection.

17 THE COURT: It'll be admitted.

18 MR. WOLFF: And then D-173 which is the payment of
19 the advance by Mr. Lock.

20 MS. BROWN: No objection.

21 THE COURT: It'll be admitted as well.

22 MR. WOLFF: Thank you. Then the September 27th
23 initial report from Grecco, Mr. Collisson, on the
24 building.

25 MS. BROWN: No objection.

1 MR. WOLFF: That's D-16.

2 THE COURT: It'll be admitted.

3 MR. WOLFF: Then one more, the 11/23/2020 e-mail
4 from Skyline to Mr. Lock about the maintenance; and
5 that's D-31.

6 MS. BROWN: No objection.

7 THE COURT: It'll be admitted. Thank you.

8 MR. WOLFF: Sorry about that, folks. I'm going to
9 keep moving along here. And if I recall where I was,
10 here's where I was.

11 BY MR. WOLFF:

12 Q. So Skyline is telling you they're ready to pull the
13 trigger in October, ready to pull those panelings down,
14 right?

15 A. Yes, sir. Yeah.

16 Q. Okay.

17 A. They said they were going to start work next week.

18 Q. And you were thinking about getting an expert to go
19 check out that panel issue, right?

20 A. Yeah. There was -- part of me really wanted to
21 talk about repairability and looking at high end of this, do
22 you have to repair or can you replace, do you have to replace
23 or can you repair. Due to them being so urgently wanting to
24 get repairs started, I --

25 Q. Elected not to do it?

1 A. Yeah. I elected to leave it up to the building
2 consultant to figure out.

3 Q. Did anyone for Eaux Holdings tell you that they'd
4 hired a separate structural engineer to look at these panels
5 and give them a report?

6 A. No, sir.

7 Q. Did they tell you that they were looking for that
8 engineer in that report to see if they could get insurance
9 money to pay for it?

10 A. No, I was never told that.

11 Q. If there was a report rendered by another engineer,
12 did you ever get it?

13 A. I never got an engineer report on anything.

14 Q. So in October they said they were ready to go. Did
15 they tell you that the contractor, Encore, we've talked about
16 them, was not licensed in Louisiana until November 24th and
17 could not do work?

18 A. They never told me that, no.

19 Q. So you were shown this Encore contract, and this is
20 already offered as P-1 -- excuse me, P-51. You recall them
21 showing you that contract today? Well --

22 A. I don't --

23 Q. -- you have never seen this contract?

24 A. No. This does not look familiar to me at all.

25 Q. Okay. So you don't know when Scottsdale got this

1 contract from Encore?

2 A. Correct.

3 Q. And you don't know what this contract obligated
4 Eaux Holdings to do in terms of payment and when?

5 A. Correct. Yeah. I've never seen it.

6 Q. If the contract was dated in December, you had
7 already tendered to Eaux Holdings -- I'm going to use the
8 plaintiff's exhibits here. I promised I wasn't going to use
9 a calculator. I'm not going to. But you'd already tendered
10 the 250 and 218,000 by November 23rd?

11 A. Yeah, 468,192.53.

12 Q. And part of that was in response to Grecco's report
13 that you got. Let's see. Let's get to the date here so I've
14 got this, the right date here. I'm sorry. I've gotten
15 disorganized because I moved my things around here. I have
16 that you received the Collisson report on October 26.
17 Correct?

18 A. That sounds correct.

19 Q. And you made the payment within 30 days of that,
20 correct?

21 A. I believe so, yes, sir.

22 Q. And that was based on the recommendation that your
23 expert gave you to pay on the actual cash value?

24 A. That's correct.

25 Q. And you still had the questions we've talked about.

1 I don't want to go over and over it. But those maintenance
2 questions were still on deck?

3 A. Yeah, there were still questions about certain
4 parts of the repairs.

5 Q. Now, you don't know -- with respect to this
6 contract that we looked at, you don't know when it was
7 received or when payments were required under this
8 construction contract, correct?

9 A. That's correct. I've never seen it before.

10 Q. And the whole notion of replacement value -- we've
11 talked about that there's actual cash value; and that's what
12 you were paying in November, correct?

13 A. Correct.

14 Q. And then as the building gets repaired and those
15 repairs are actually happening and completed, then you're
16 obligated to pay as you go along?

17 A. Yes, once the actual costs are known and incurred.

18 Q. And do you know when Eaux Holdings submitted those
19 actual costs to Scottsdale?

20 A. No, I don't.

21 Q. Do you know if that \$1.36 million that they've
22 talked about was an actual expense in terms of actual
23 dollars?

24 A. I have no way of knowing.

25 Q. Do you know if the scope of this contract with

1 Encore included non-storm related upgrades?

2 A. I have no idea.

3 Q. Did anyone tell you that the goal of Eaux Holdings
4 was to make this building better as a result of these
5 payments?

6 A. No one told me that.

7 Q. When you were answering questions about whether the
8 1.36 was timely or not, and I'm trying to figure this out,
9 first, you don't know whether it was actually owed or paid?

10 A. Right. I mean, the only thing I know is that you
11 guys were showing me that those payments were made after the
12 claim wasn't assigned to me anymore.

13 Q. So you cannot tell this jury whether the payments
14 that were made pursuant to this contract by Scottsdale, and
15 we've seen a progress of payments here that moved along, you
16 don't know whether they were timely or not?

17 A. I don't know that, no.

18 Q. Okay. This All Clear \$495,000 mitigation, did you
19 have issues with that?

20 A. Yeah. It seemed really high.

21 Q. Can you give us just some examples?

22 A. I mean, there's a 53-foot cargo trailer on there.
23 I don't know why we have \$10,000 for a 53-foot. I mean,
24 there's transportation fees. Every single person who worked
25 on that job got somewhere like 20 to \$40. I'm remembering

1 off the top of my head. If you had it, I could kind of
2 review it. But there was stuff on there that was -- it was
3 crazy. It was just twice what I would normally expect to see
4 even in a hurricane emergency kind of situation.

5 Q. And did anyone with Eaux Holdings or the public
6 adjuster tell you that they thought it was outrageous as
7 well?

8 A. No. I mean, what I was told was, "You got the
9 bill. You need to pay it." Kind of that's the impression
10 they gave me.

11 Q. I guess I've got maybe one more question. At any
12 time during this process were you given the information that
13 you would need to plug into the Xactimate and figure out what
14 a number should be from what Mr. Major gave you?

15 A. No.

16 Q. And all of these photos, I think all of this -- I'm
17 sorry. I'm going to pass one. All of these, it's mostly all
18 photos?

19 A. Yeah. Well, I never received those books. I
20 received digital copies and it was almost entirely photos.

21 Q. And could they have been appended to or kind of fed
22 into Xactimate?

23 A. Oh, yeah. I mean, that's how claims adjusters do
24 it. We take the pictures, we load them into the software.
25 There's a place right there in the system where you write a

1 note about what it is. There's a description and you can
2 say, "This is the east office showing the -- you can see
3 through the roof from here, from inside." You know, you
4 would plug them into Xactimate, you write a note about what
5 it is, and it prints out in a very nice form. You can rotate
6 them. You can edit them. You can, not edit them, but notate
7 them. So you can put lines and arrows and circles on stuff.
8 It's the way that claims adjusters do it.

9 Q. Was that done here?

10 A. No, it was not.

11 Q. Thank you, sir.

12 THE COURT: Redirect.

13 **REDIRECT EXAMINATION**

14 **BY MS. BROWN:**

15 Q. Mr. Lock, I'm going to jump around a little bit
16 because I just want to ask you a few follow-up questions.
17 First of all, you didn't -- Scottsdale didn't have any
18 problem with the condition of the building when it sold a
19 \$2 million policy to Eaux Holdings?

20 A. No.

21 Q. It accepted premiums from Eaux Holdings for that
22 \$2 million policy, didn't it?

23 A. It did.

24 Q. Nobody either before or after the storm ever asked
25 if there was an inspection report or to see an inspection

1 report, correct?

2 A. I wasn't aware of one.

3 Q. And you did not ask anyone if one had ever been
4 done?

5 A. Yeah, that's correct. I didn't because I didn't
6 know it existed.

7 Q. And just like you didn't know it existed, you also
8 don't know that Mr. Odom did all the repairs in that
9 inspection report?

10 A. I don't know what he did.

11 Q. Okay. You didn't ask?

12 A. No, ma'am.

13 Q. Okay. You said, when Mr. Wolff was questioning
14 you, that you were continuing to investigate the claim; but
15 you admitted to me both in your deposition and today that
16 after the November 22nd payment on the Grecco estimate you
17 did not return communication with Skyline after that?

18 A. That's correct. There were e-mails that went
19 unanswered.

20 Q. And phone calls, correct, that are noted?

21 A. I believe so, yes.

22 Q. Okay. Some discussion also about -- you said that
23 in this estimate, and I'm going to get into it with Jeff
24 Majors today, but that there was some big number that they
25 just threw in there for market conditions, right? You said

1 you still don't know what that is?

2 A. The 260,000 contingency?

3 Q. Correct. Is that right? You still don't know what
4 that is?

5 A. I don't know what that is.

6 Q. Did you ever ask?

7 A. I hired a building consultant to review the
8 estimate and prepare his own estimate.

9 Q. But did you -- in your communications with Skyline
10 before they stopped in November, so between September when
11 you got this and November, did you ever just ask?

12 A. No, ma'am.

13 Q. Okay. Another problem that you say you had with
14 this estimate was that you had no way to calculate the actual
15 cash value; is that right?

16 A. Not based off of that, no, ma'am.

17 Q. First of all, Louisiana law does not require an
18 insured to give you the actual cash value, correct?

19 A. I'm not an attorney.

20 Q. But you're aware -- you told me yesterday you're
21 familiar with the laws that govern your adjustment of claims
22 in Louisiana.

23 A. I'm familiar with them but --

24 Q. Are you aware of any law that requires the insured
25 to give you an actual cash value?

1 A. No, ma'am, I'm not.

2 Q. And when you were provided -- you continue to
3 remind me you were provided the electronic copy of this set,
4 correct?

5 A. That's correct.

6 Q. You were also provided what's called an ESX file,
7 weren't you?

8 A. An ESX file from who?

9 Q. From Skyline.

10 A. I don't recall receiving an ESX file from them.

11 Q. Okay. You're able to ask for ESX files, aren't
12 you?

13 A. I could, yes.

14 Q. And just so the jury understands what that is, you
15 talked about Xactimate and what this is printed out is like a
16 PDF; but an ESX is the native format of an Xactimate file,
17 correct?

18 A. Right. In other words, it would be comparable
19 to -- like a Word document has its own file format, just like
20 Excel has their own file format, Xactimate has their own file
21 format.

22 Q. And in that native format you can manipulate the
23 inputs, correct?

24 A. Yes, but it's not as simple as that.

25 Q. Okay. For instance, when Grecco prepared its

1 Xactimate estimate you asked them to send you the ESX file so
2 that you could apply the depreciation, didn't you?

3 A. So that I could make sure it was applied correctly.

4 Q. Okay. You could have done the same thing to the
5 Skyline estimate had you wanted to, correct?

6 A. No. I don't believe there was measurements in the
7 Skyline estimate. I mean, there was no way to get through
8 their estimate because they come through -- every user in
9 Xactimate has their own profile and that's set up directly
10 with Xactware, which is the company that makes the software.
11 So you can't just get any old body's estimate and start
12 working through it. It has to be set up like an insurance
13 company's profile, not like a contractor's profile. I've
14 never had any success asking for a public adjuster's ESX file
15 and being able to open it and do anything with it because the
16 two different systems don't jive together.

17 Q. Okay. Setting aside that technicality, once you
18 learned what Grecco's 22 and something percent depreciation
19 was, you could get that dollar store calculator like I did
20 this morning and apply depreciation, couldn't you?

21 A. But that would not be the correct way to apply it.

22 Q. Okay. But you could do that math?

23 A. I can do math, yes, ma'am.

24 Q. Okay. While we're talking about depreciation, the
25 137,000 or so between the Grecco RCV and ACV, you never

1 released that depreciation to Eaux Holdings?

2 A. No.

3 Q. Scottsdale ultimately paid \$1.8 million on this
4 claim or very close to it, correct? We looked at those
5 numbers.

6 A. Yes, ma'am.

7 Q. And you admitted that that number was a lot
8 close -- Skyline was a lot closer than Grecco, right, to
9 what --

10 A. That 1.8 included the mitigation.

11 Q. Okay.

12 A. So -- sorry. I'm doing math in my head.

13 Q. It included 177,000 for mitigation. So let's --
14 Skyline was a lot closer than Grecco?

15 A. Those numbers -- yeah, those numbers are closer;
16 but if you add it all up, their original numbers with their
17 estimate plus mitigation came up to something like 2.7 or
18 2.8.

19 Q. Scottsdale didn't get to the right number until
20 five months after Mr. Odom filed suit, correct?

21 A. I don't know.

22 Q. You need to look at the payments again?

23 A. Well, I wasn't handling the claim at that time. I
24 don't know how they came up with those numbers.

25 Q. But you know the \$1.1 million wasn't paid until May

1 of 2021?

2 A. I saw that, yes.

3 Q. And that was after litigation had commenced and a
4 litigation consultant had been hired, correct?

5 A. Like I said, I wasn't handling the claim at that
6 time.

7 Q. But you're here as Scottsdale, Mr. Lock, and you
8 know those facts, correct?

9 A. I know that we issued the payment in May like you
10 showed.

11 Q. And that was based on Granger Stuck going out and
12 inspecting the property?

13 A. I don't know that. I wasn't involved with his
14 being part of the claim.

15 Q. I want to go back to that \$250,000 advance that
16 Jennifer Vick -- we know what she said, it was for
17 mitigation. You say that's not what it was for. What was it
18 for?

19 A. It was for the advance amount that they'd
20 requested. They'd requested an advance. We don't issue
21 advances for any specific thing unless we say specifically
22 what it's for. It's we know that we owe at least this much
23 for the claim, let's go ahead and get it out the door, get it
24 in somebody's hand to help them out and then we'll sort out
25 the final amounts later.

1 Q. Okay. And how did you decide on at least 250
2 instead of the at least 1.5 million that Monte Jones had told
3 you?

4 A. Well, it jived with the amount that they'd
5 requested.

6 Q. Last question. I know you stated that you were
7 continuing to investigate the claim and there were a lot of
8 things you didn't have even though you didn't ask for them.
9 Louisiana law sets a time within which you have to do those
10 things, right?

11 A. Yes.

12 MS. BROWN: That's all the questions I have.

13 THE COURT: Okay. You may step down. I'm sorry.
14 Did you complete your answer?

15 THE WITNESS: Well, yeah. I mean, Louisiana, my
16 understanding is they have a law that says that you have
17 to -- can you say that again? I'm not sure I understood
18 the question correctly.

19 THE COURT: Please. Let him clarify.

20 MS. BROWN: Sure.

21 BY MS. BROWN:

22 Q. My question was that Louisiana law sets times
23 within which you have to do things on claims.

24 A. That's correct.

25 Q. Okay. That was my question.

1 A. Okay. Thought it sounded different the first time
2 you said it.

3 Q. It may have not been exactly the same words --

4 A. Yeah.

5 Q. -- but that was my question.

6 A. Okay.

7 Q. I have nothing further. Do you?

8 A. I'm good.

9 THE COURT: Okay. You may step down. Thank you.

10 Ladies and gentlemen, I think your lunch has
11 arrived so we're going to take our lunch break now, let
12 you go eat lunch. We'll come back at 1:00 o'clock.
13 1:00 o'clock okay or y'all need a little more time? I'm
14 trying to keep this thing moving. 1:15. How about
15 that. All right. Thank you. All rise for the jury.

16 (Jury exits courtroom.)

17 THE COURT: Anything else? See y'all at 1:15.

18 (Recess is taken.)

19 THE COURT: Anything before we bring the jury in?

20 MR. WOLFF: I think so, Your Honor. John Wolff for
21 the defense. Ms. Brown was asking about the time that
22 would be charged to everybody and getting that sorted
23 out. I think we got a couple things. Are the openings
24 going towards the -- it's fine. I just need to know
25 what the playbook is.

1 THE COURT: Not really. She added it but -- I
2 mean, I gave y'all each 25, 30 minutes for opening or
3 something. I'm not really going to -- yeah, that's
4 okay. What I was really talking about was time with
5 witnesses and so on like that because if you decide you
6 want to play a four-hour video deposition, God forbid,
7 I'm going to tax somebody with that time because those
8 poor people are going to fall asleep in about 20
9 minutes.

10 MR. WOLFF: Understood.

11 THE COURT: To be honest, I'm trying to discourage
12 that.

13 MS. BROWN: Only the one playing the video gets
14 tagged with the time.

15 MR. WOLFF: Yes, unless you have --

16 THE COURT: Whoever's questioning. If you then
17 play the other part, then that's your time. Because
18 y'all had that big ole deposition y'all made me spend
19 two days reading of somebody. I don't remember who that
20 guy -- who was it?

21 MR. WOLFF: Moncrieff (sic) for Encore.

22 THE COURT: Yeah. I had to read that thing and
23 then I had to rule on all y'all's different objections
24 and stuff. Then I said, okay, if you're going to play
25 this thing, somebody's going to pay.

1 MR. WOLFF: And on the bar conferences? Hopefully
2 we've worked out a lot of the kinks.

3 THE COURT: I'm not taxing y'all. We're not taxing
4 you on that. I mean, you got to make your objections
5 and come up and do that. Look, I'm trying not to be a
6 mean federal judge. I'm trying to be reasonable.

7 MR. WOLFF: Right. Well, we're going to push it
8 along.

9 THE COURT: I have my moments but, you know. Hey,
10 listen, I'm trying to let y'all try your case. That's
11 my goal. You know, that's always been my goal on both
12 sides, let you try your case. I'm the referee here, you
13 know. I'm trying to keep y'all in line.

14 MR. WOLFF: We need it.

15 THE COURT: No flagrant fouls, you know. Anything
16 else?

17 MR. WOLFF: No, sir.

18 THE COURT: All right. Let's bring the jury in,
19 then.

20 (Jury enters courtroom.)

21 THE COURT: Good afternoon, ladies and gentlemen.
22 Hope you had -- I don't know what they provided. That
23 is outside my purview. I hope it was delicious. Hope
24 it was good. Okay. Good. Everything's -- everybody's
25 doing okay? I just want to check on y'all. I want

1 y'all to be comfortable because we do appreciate your
2 service so we want to take care of you.

3 All right. Plaintiff, call your next witness.

4 MR. COX: Your Honor, we call Ricky Poole.

5 **RICHARD POOLE,**

6 after being first duly cautioned and sworn to tell the truth,
7 the whole truth and nothing but the truth, did testify on
8 oath as follows:

9 **DIRECT EXAMINATION**

10 **BY MR. COX:**

11 **Q.** Would you please state your full name and address.

12 **A.** Richard L. Poole, 159 Cripple Creek Road, Lake
13 Charles.

14 **Q.** And you go by Ricky Poole, correct?

15 **A.** Correct.

16 **Q.** Sir, are you the owner of Poole Roofing in Lake
17 Charles?

18 **A.** Yes, sir.

19 **Q.** How long have you been in business?

20 **A.** 46 years.

21 **Q.** Are you a licensed roofer in the state of
22 Louisiana?

23 **A.** Yes, sir.

24 **Q.** About how many commercial roofs does your company
25 do a year during that 46-year span?

1 A. I'd say on the average ten.

2 Q. So you may have done about 400 roofs in your
3 career, commercial roofs?

4 A. Possibly, yes, sir.

5 Q. And a whole lot more than that residential roofs,
6 correct?

7 A. Correct.

8 Q. You were the company and you did the roof on 620
9 Esplanade, the building owned by Eaux Holdings, Joey Odom,
10 correct?

11 A. Correct.

12 Q. That was after the storm, you redid the roof?

13 A. That is correct.

14 Q. Had you done some work between the time when he
15 purchased the building in January 2018 and the time of
16 Hurricane Laura on August 27, 2020?

17 A. Correct.

18 Q. What type of work did you do on that roof in that
19 period before the storm?

20 A. To the best of my memory, we did a repair --

21 Q. And --

22 A. -- in that timeframe.

23 Q. -- could you describe it a little bit more about
24 what the repair was.

25 A. I don't remember the exact size, but we capped over

1 the existing roof, removed the existing gravel and capped
2 over an area that was a problem.

3 Q. So you fixed the problem parts?

4 A. To the best of my knowledge, yes.

5 Q. What was the condition, in your opinion, of the
6 roof after you did that work but before the storm?

7 A. Nothing out of the ordinary. I mean, more than a
8 routine repair. You scrape gravel back -- on that existing
9 particular system you remove the gravel until you get to
10 something good or find the problem and make a repair and get
11 into good product and stop there.

12 Q. So would you say that for a roof of that age -- it
13 was built -- the building was built in 1976. But for a roof
14 of that age, would you say that the roof was in good
15 condition before Hurricane Laura?

16 A. Yes, because of the amount of -- normally I will
17 judge -- age has a factor, yes. Normally I will judge a roof
18 condition to determine whether it's usable or needs to be
19 reroofed as according to the amount of patches, repairs. I
20 don't ever go into a roof and take one patch and then say,
21 oh, it's time to reroof, try and get as much as we can out of
22 the client. I was confident at that time that the repair --
23 it was a valid repair.

24 Q. After the storm Mr. Odom hired you to replace the
25 roof, correct?

1 A. Correct.

2 Q. Was that because the roof had been damaged during
3 the storm?

4 A. Most certainly.

5 Q. What did he ask you to do, Mr. Poole?

6 A. Put him in the dry. You know, put a new roof on.

7 Q. Did he get more specific than that or did he just
8 say, "I need a new roof"?

9 A. To the best of my memory, it was just a new roof.

10 Q. He never asked you, "Mr. Poole, I'd like you to put
11 a better roof on my building than the one I had"?

12 A. No, sir.

13 Q. The roof that you put on was a different kind of
14 roof, correct?

15 A. Correct.

16 Q. Why is that?

17 A. Well, time dictates to the different procedures and
18 installation, product changes. As you said, roof was --
19 existing roof was 40 years old. Products -- the whole
20 roofing industry changes with environmental issues and they
21 change products. I felt like I put the roof on that was
22 similar to the same amount of plies. And the original roof
23 was a rock roof. To the best of my knowledge, they haven't
24 done a rock roof or aggregate roof in 15, 20 years. It was a
25 roof I put on that I was comfortable with the product and

1 have had good success with.

2 Q. You completed the work about May of 2021 on that
3 roof?

4 A. Somewheres in that, yes, sir.

5 Q. What's the warranty on the new roof that you put
6 on?

7 A. The warranty comes from the manufacturer. They
8 come with a 20-year no dollar limit warranty.

9 Q. In your opinion, what's the life expectancy of that
10 new roof that you put on?

11 A. With today's product it's hard to say, and the
12 condition of the weather in the next 20 years is going to
13 dictate a lot of that. But if you can see '21, '22, any year
14 like that, we feel like we've accomplished.

15 MR. COX: I'd like to offer 112.

16 MS. WOLF: It's already admitted.

17 MR. COX: Oh, it's been admitted. Sorry.

18 BY MR. COX:

19 Q. Mr. Poole, can you see this invoice dated
20 March 3rd, 2022?

21 A. Yes, sir.

22 Q. That's the invoice that you gave to us, I guess,
23 within the last week, correct?

24 A. Correct.

25 Q. And the total amount of the invoice is \$276,887.

1 Was that your charge to Eaux Holdings and Mr. Odom to replace
2 the roof after the storm?

3 A. That is correct.

4 Q. Thank you, sir. I don't have any further
5 questions.

6 A. Thank you.

7 **CROSS-EXAMINATION**

8 **BY MS. WOLF:**

9 Q. Good afternoon, Mr. Poole. How are you? So after
10 Hurricane Laura, I understand that you met with Mr. Odom.
11 And did y'all walk the roof together and assess the damage?

12 A. I don't think Mr. Odom got on the roof.

13 Q. But you did?

14 A. We -- I did personally, yes.

15 Q. So you assessed the Hurricane Laura damage; is that
16 right?

17 A. To the best of my ability. When I got there, by
18 the time I got there, the roof had already been temporary
19 dried in with a TPO or some type of membrane so it was hard
20 to really -- I did more assessing underneath.

21 Q. Right. And at some point after you did that
22 assessment of Hurricane Laura damage you then made a
23 recommendation to Mr. Odom about what you thought needed to
24 happen to the roof to put him back to where he was prior to
25 the storm, right?

1 A. Correct.

2 Q. And you said that was a roof replacement; is that
3 right?

4 A. That is correct.

5 Q. And the owner made that decision and told you to go
6 forward; is that correct?

7 A. Correct.

8 Q. And when you were done with the work was Mr. Odom
9 satisfied with your work?

10 A. To the best of my knowledge.

11 Q. And he paid for you it, right?

12 A. Not quite in full, but yes.

13 Q. We'll look at all the invoices to see exactly what
14 was paid and when, but as of today your understanding is that
15 Mr. Odom is satisfied with the roof?

16 A. Yes.

17 Q. And you said that it's a similar roof to the roof
18 that was on there prior to the storm, correct?

19 A. Yes, ma'am.

20 Q. I want to go through the payments that were made to
21 Poole Roofing by the plaintiff. So what this is, in the
22 course of this lawsuit we were provided with proof of the
23 actual payments that were made for this roof work. So you
24 agree that checks from the owner to the contractor would
25 reflect the actual cost for the work; is that correct?

1 A. Yes.

2 Q. So let's look at --

3 MS. WOLF: What I'm going to do is offer, file and
4 introduce three checks. These are going to be defense
5 Exhibits D-75, D-76, and D-60. These are the three
6 Poole Roofing checks.

7 MR. COX: May I see those, please. No objection.

8 THE COURT: They're admitted.

9 BY MS. WOLF:

10 Q. So we'll look at these one at a time. The first
11 one that we have here is dated -- you can see that it's dated
12 November 11, 2020, correct?

13 A. Correct.

14 Q. And that check was for \$80,000; is that right?

15 A. That is correct.

16 Q. And the next one that we have is D-76. All right.
17 This one is dated February 3rd, 2021, correct?

18 A. Yes.

19 Q. And that -- in this check the plaintiff paid Poole
20 Roofing \$60,815, correct?

21 A. Correct.

22 Q. And the last one that I have for you, this one is
23 dated May 26th of 2021 and the plaintiff paid Poole Roofing
24 \$100,000, correct?

25 A. Correct.

1 Q. So these three checks -- and I know we're going to
2 look at the statement in just a minute. So these three
3 checks total the \$240,815 that plaintiff paid to Poole
4 Roofing, correct?

5 A. If you're correct with the math, yes.

6 Q. We'll look and see if I'm correct because it
7 actually comes from your sheet, but we'll look at that in
8 just a second. Let's put that up. This has already been put
9 in as exhibit -- plaintiff's Exhibit 112. Okay. So there
10 you see the \$240,815, correct?

11 A. Yes.

12 Q. And it lists those three invoices that we just
13 looked at, right?

14 A. Yes.

15 Q. Now, I believe that you just testified that the
16 roof work was done sometime in May of 2021, right?

17 A. The completion?

18 Q. Yes. When was the roof completed?

19 A. I'm going to assume there. I'm not exactly sure
20 that timeframe.

21 Q. Well, I want to see if we can pin it down a little
22 bit.

23 A. Okay.

24 Q. That invoice was dated May 4th of 2021. Do you see
25 that? You invoiced --

1 A. Yes, ma'am.

2 Q. Do you typically invoice after you've finished with
3 the work?

4 A. Correct.

5 Q. So is it a fair assumption that by the time you
6 dated that invoice, May 4th, 2021, you'd completed the work?

7 A. I'm not going to say that it was completed. I
8 would probably say the majority of it was completed.

9 Q. Okay. Do you know when you completed the last part
10 of the roof work?

11 A. No, ma'am.

12 Q. Okay. Did Mr. Odom ever mention to you anything
13 about him having a replacement cost insurance policy and
14 needing the final payment so he could submit them to his
15 insurance company?

16 A. Not that I'm aware of.

17 Q. Okay. So I think, if I'm understanding this right,
18 you're saying that you were completed with the roof sometime
19 in May of 2021.

20 A. It could have been. It could have been a month
21 later, because there was a balance of 36,000.

22 Q. Okay. And that leads me to my next question. So
23 this is -- what we're looking at in P-112 doesn't actually
24 say invoice on it, right? It's a statement?

25 A. Oh. Yes.

1 Q. Okay. And do you know why we're just getting this
2 dated May 3rd and trial started yesterday on May 7th -- I
3 mean, March 7th? Do you know why we're just getting it?

4 A. I think it was just requested.

5 Q. Requested by whom?

6 A. Mr. Cox.

7 Q. Okay. So you were -- you invoiced -- you see here
8 that you invoiced for the roof, and I understand that you're
9 saying it wasn't the final amount; but you invoiced on
10 May 4th, 2021, right?

11 A. Yes, ma'am.

12 Q. And you looked at the date on that check from D-60,
13 Defense Exhibit 60, and you see the date on there is May 26,
14 right?

15 A. Yes, ma'am.

16 Q. So you invoiced on May 4th and three weeks later
17 you were paid for the roof, right?

18 A. It appears, yes.

19 Q. Now I want to look at what we've marked --
20 actually, this has already been admitted by plaintiff. This
21 is plaintiff's Exhibit 96. Is that going to be too small for
22 you to see? Can you see it? Is that all right, Mr. Poole?
23 Can you see that?

24 A. Yes, ma'am.

25 Q. So this has been marked as plaintiff's Exhibit 96,

1 and this is Page 4 of that exhibit. And you note there's no
2 date on this document, right?

3 A. Not that I can tell.

4 Q. All right. And it's called a payment schedule. Do
5 you see that right here?

6 A. Yes, ma'am.

7 Q. All right. And then it also has the word
8 "estimate" here. Do you see that?

9 A. Yes, ma'am.

10 Q. Here and here?

11 A. Yes, ma'am.

12 Q. I've highlighted "total estimate." You agree that
13 this document that we're looking at in P-96, Page 4, that's
14 just an estimate; is that correct?

15 A. That is correct.

16 Q. So it doesn't reflect an actual cost, right?

17 A. That is correct.

18 Q. So you agree that the actual cost for this roof
19 replacement was not \$289,545, right?

20 A. That is correct.

21 Q. And if the insurer -- if this had been submitted to
22 the insurer and the insurer had paid it, the \$289,545, the
23 insurer would have overpaid this part of the claim; is that
24 right?

25 A. That is correct.

1 MS. WOLF: I don't have any further questions.

2 THE COURT: Any redirect, Mr. Cox?

3 MR. COX: Yes, sir.

4 **REDIRECT EXAMINATION**

5 **BY MR. COX:**

6 Q. Mr. Poole, part of that same exhibit, when Ms. Wolf
7 just said there was no date on it, can you read that where it
8 says "Date: Monday, October 19, 2020"?

9 A. Yes, sir.

10 Q. That was the estimate that your company provided to
11 do that roof at that time, in October of 2020, correct?

12 A. Correct.

13 Q. And that's what you expected that it was going to
14 cost. That's what you were telling Mr. Odom that it was
15 going to cost. Correct?

16 A. That is correct.

17 Q. And it ended up costing just a little bit less,
18 276,000 and some change, correct?

19 A. That is correct.

20 Q. Thank you.

21 THE COURT: Okay. You may step down. Thank you.

22 MS. BROWN: Plaintiff will call Jeff Major.

23 **JEFFREY MAJOR,**

24 after being first duly cautioned and sworn to tell the truth,
25 the whole truth and nothing but the truth, did testify on

1 oath as follows:

2 **DIRECT EXAMINATION**

3 **BY MS. BROWN:**

4 **Q.** Mr. Major, if you will introduce yourself to the
5 jury.

6 **A.** Sure. Hi, guys. My name's Jeffrey Major. I'm
7 with Skyline Adjusters.

8 **Q.** Okay. And I can -- I'm sure they can all tell from
9 your accent you're not from around here. So tell us where
10 you came from.

11 **A.** Not from around here. I'm from New York, but I
12 currently reside in New Jersey.

13 **Q.** Okay. And we've heard testimony from Mr. Lock over
14 the past two days that you were the public adjuster hired by
15 Mr. Odom to help him adjust the claim at 620 Esplanade.

16 **A.** That's correct.

17 **Q.** Tell us how it is that you came to meet Mr. Odom.

18 **A.** So I have a -- during Superstorm Sandy, which was
19 up in the northeast, there was a gentleman who came up. He
20 was an adjuster, public adjuster, used to be an independent
21 adjuster. He came up to New Jersey and New York to help with
22 insurance claims. He's from Lake Charles. He was -- I think
23 he's from Oberlin originally, lives in Lake Charles,
24 Louisiana. And prior to -- so I do insurance hurricane work.
25 So we sort of have an idea where a hurricane's hitting and

1 kind have an idea where it's actually going to hit usually
2 before most people do because we track those things. So I
3 got a call. Gentleman's name was Mr. Kermit Sonnier and I
4 got a call from him and he basically said, "Y'all come on
5 down to help." So it was sort of this reciprocal he came up
6 to help, you know, us up there so I was coming down to help
7 people down here with him.

8 Q. Okay.

9 A. And then -- well, you asked me how I met Mr. Odom.

10 Q. Right.

11 A. Sorry.

12 Q. I was going to get you back --

13 A. So -- I was going to give a little bit of my life
14 because it's how I ran into him. So when I go to a storm --
15 I flew into Houston, rented a car and I drove in. I drove
16 through, like, flooded streets. My phone didn't work. My
17 nav. didn't work. We didn't have any signals or anything.
18 But when I go to a hurricane area I have -- my first goal is
19 to find a tire place because there's, like, people's roofs
20 laying all over the place and everybody gets flats. So I
21 don't want to go down to some area I don't really know and be
22 stuck so the very first thing is tires. And the very second
23 thing is fuel, gas.

24 So it took me maybe -- it took me hours to get in. I
25 was driving down back roads that were -- I didn't even know

1 where I was. I saw a Servpro truck, figured it was going to
2 where the area was, so I followed it. And then I got in and
3 I was trying to communicate with some of the emergency
4 service guys, some of the people I knew, remediation
5 companies, to try to basically find fuel. That's all I cared
6 about.

7 So I went by the airport. There was a body shop like
8 garage and there was a guy out there cleaning up. So I went
9 and talked to him. I told him my name. I asked for his
10 contact information. And then I saw one of the All Clear
11 trucks. And in my business, like, you know Servpro, Belfor,
12 all the -- like, you just know they have resources. They're
13 staying somewhere. So I followed the All Clear truck and
14 they went to a parking lot which turned out to be Mr. Odom's
15 parking lot. And they had a fuel cell. So a fuel cell is
16 just this big tank of gas. So, like, now I've met everything
17 I need. And I know I'm going to get bit by mosquitos and not
18 have food and no air conditioning, but at least I know I'm
19 there.

20 So when I showed up and I was talking to the guys,
21 there's some emergency group that I knew the guys and they
22 were talking to me. Then one of the gentlemen introduced me
23 to Mr. Odom. And this was, like -- the storm went through.
24 This was that morning. And so -- and then I couldn't get a
25 hold of Mr. Sonnier. I went by his house, but he was stuck

1 up in Oberlin because trees blocked his area and he wasn't
2 coming down. And then I talked with Mr. Odom, just more of a
3 hello, how you doing.

4 There was a meeting and the remediation guy, whoever it
5 was, said, you know, "Do you want to listen in?" So I sort
6 of stood under his carport. And the ICE people were there,
7 the Homeland Security people, Joey, the emergency service
8 people. There's a whole group of people that were there. I
9 sort of listened in on the meeting and that was it. The next
10 day I got a phone call from my office that said, "Could you
11 swing by Mr. Joey's place?" And I went by and talked to him
12 about me working on his claim. That's how I met him. Sorry
13 it was long.

14 Q. No, that's good. I want to back up a little bit.
15 I'll come back to when you were actually heard. Tell us
16 exactly the term -- public adjusting is a term I think a lot
17 of people around here have gotten familiar with recently, in
18 the past couple years. If you could explain to the jury what
19 it is that public adjusters do.

20 A. Sure. So there's -- an insurance adjuster is
21 somebody who adjusts insurance claims. It's different from
22 an estimator. I'm an insurance adjuster. There's mainly
23 three types of adjusters: A staff adjuster who works for the
24 insurance company. Like, he's an employee, gets a salary and
25 gets a paycheck. An independent adjuster, which is -- he

1 does the same job, basically, but he gets paid by -- he works
2 for multiple insurance companies. So if you have State Farm
3 and you have a house fire, they're going to send a State Farm
4 adjuster who usually works for State Farm. If you have a cat
5 claim, a catastrophe claim where there's a bunch of claims,
6 they're going to send out independent adjusters. His shirt
7 may say State Farm, but he works for some independent company
8 like Monte Jones was in this case. He was an independent
9 adjuster working for Scottsdale. And then there's public
10 adjusters.

11 So in sort of like the best scenario, adjusting is just
12 adjusting. There shouldn't be sides and it shouldn't be like
13 you're an insurance company adjuster or you're a public
14 adjuster. If the roof blew off, you measure the roof, this
15 is what it is, and you apply the damages to the policy and
16 then you adjust the claim. It so happens that independent
17 adjusters and staff adjusters only work for insurance
18 companies. Public adjusters who are licensed by the state,
19 you're licensed, you're bonded, you have to pass tests and do
20 whatever, you're working for homeowners. And just by
21 default, they're trying to not pay you money and I'm trying
22 to get enough money to fix it. They're sort of like -- like,
23 we're against each other in a sense. In a lot of cases we're
24 not because the adjuster and you work it out, but that's the
25 difference. So there's a staff adjuster, an independent

1 adjuster, and a public adjuster.

2 Q. And in this case we had all three. Mr. Lock was
3 the staff adjuster, Mr. Jones was the independent adjuster,
4 and you were the public adjuster?

5 A. In a sense, correct.

6 Q. Why do you say that?

7 A. Because Mr. Lock was an inside desk adjuster. So
8 when I say staff adjuster and I gave the example of State
9 Farm, that's the guy that actually comes out and adjusts your
10 claim. He's still a field adjuster. So Mr. Lock was a desk
11 adjuster. He wasn't there. He didn't see it. He gets -- so
12 what happens is the field adjuster, whether he's a staff
13 adjuster or independent adjuster, reports back to the staff
14 adjuster. So the decisions, everything that I deal with as a
15 public adjuster, is with the guy in front of me. It's the
16 field adjuster. Sometimes it's a staff adjuster. Sometimes
17 it's an independent adjuster. In this case there was no
18 staff adjuster adjusting the claim. There was a field
19 adjuster, and that was Monte Jones. And Adam was just the
20 inside guy that Monte was reporting to.

21 Q. And as opposed to just an estimate to repair things
22 at 620 Esplanade, your process includes determining that the
23 particular items of damage were caused by the hurricane?

24 A. That is correct, yes.

25 Q. Okay. And covered by the particular insurance

1 policy?

2 A. Correct. So when I gave the example of estimating
3 and adjusting, estimating is its damage, how much is it going
4 to cost to replace, adjusting is what part of --

5 MR. WOLFF: Your Honor, I'll object. May we
6 approach?

7 BENCH CONFERENCE

8 THE COURT: What's your objection?

9 MR. WOLFF: He's starting to talk about coverage.
10 That's exactly --

11 MS. WOLF: It's excluded in the sanction.

12 MR. WOLFF: Right. They haven't tendered him.
13 They haven't -- no. The sanction's very clear. We're
14 under three --

15 MS. WOLF: The Judge was saying --

16 THE COURT: Hold on a second.

17 UNKNOWN SPEAKER: I can do it.

18 THE COURT: No, no. You know what, give me one
19 second. I don't see anything in that question about
20 coverage.

21 MR. WOLFF: Of course not.

22 THE COURT: I mean, give me a second. Let me read
23 it. I mean, I don't really see a coverage answer. He
24 didn't really get very far.

25 MR. WOLFF: That's because I stopped him.

1 THE COURT: You're making like --

2 MR. WOLFF: He started --

3 THE COURT: -- a preemptive strike here?

4 MR. WOLFF: Exactly.

5 MS. WOLF: This is like in his deposition. He
6 can't talk about --

7 THE COURT: He hadn't said anything yet.

8 MR. WOLFF: He's starting to talk about the policy.

9 MS. WOLF: He did say part of his role is to
10 interpret the policy. He just said that.

11 THE COURT: That's not what he said.

12 MS. BROWN: He did not say that.

13 THE COURT: I just read the transcript on my bench.

14 MS. BROWN: Absolutely not.

15 THE COURT: He did not say that. Yeah. He didn't
16 say that. I just read it. There's nothing in there to
17 that effect. Maybe you think he's going there --

18 MR. WOLFF: I do.

19 THE COURT: -- but he hadn't gotten there yet.
20 Until he gets there, there's nothing for me to rule on.

21 MR. WOLFF: So he's a fact witness right now and --

22 THE COURT: They haven't tendered him as an expert.

23 MS. BROWN: I'm getting him qualified.

24 THE COURT: You need to go ahead and do that.

25 MS. BROWN: Well, that's what we're doing. I've

1 got to explain what he does, what the job is.

2 THE COURT: I need qualifications. I need --

3 MS. BROWN: That's where we're going.

4 THE COURT: -- work experience, all that. That's
5 what I need.

6 MS. WOLF: There's already been -- we already
7 submitted this pre and you already ruled that he is a
8 public adjuster. You need more than that to qualify?

9 MS. BROWN: Well, I'm going to tender him and you
10 can --

11 MR. WOLFF: You're just going to tender him as a
12 public adjuster?

13 MS. BROWN: Yeah.

14 THE COURT: He can give testimony about public
15 adjusting, adjusting claims.

16 MR. WOLFF: We're not challenging his role as a
17 public adjuster.

18 THE COURT: Unless y'all want to stipulate to that,
19 that he's a public adjuster and he's qualified to
20 testify --

21 MS. WOLF: I don't think we need to --

22 THE COURT: That's up to her.

23 MS. BROWN: I'm going to put the evidence on
24 anyway.

25 THE COURT: Listen, I have many trials where they

1 sit over there and they'll say -- and they go we
2 stipulate that he's an expert. They can still do it and
3 you can just say, yeah, great. We'll skip over this
4 part.

5 MR. WOLFF: I assume -- and I don't want to judge,
6 but this guy talks and you're --

7 MS. BROWN: So.

8 MR. WOLFF: Well, not so because he'll start here
9 and what color is the sky --

10 MS. BROWN: He's using my time up when he talks.

11 MR. WOLFF: Yeah. I understand. What color is the
12 sky and 15 minutes later it's now from blue to green to
13 gray.

14 MS. BROWN: He's not gone off topic one question.

15 MR. WOLFF: But he can't talk about policy
16 interpretation.

17 MS. BROWN: He has not done that, and I've not
18 asked him --

19 THE COURT: No. But what he's trying to tell you,
20 Somer, is that he gets to -- you're throwing the ball up
21 and he's running underneath it --

22 MS. BROWN: Judge, I have no intention --

23 THE COURT: -- and he's continuing to run.

24 MS. BROWN: I have no intention of violating your
25 order, nor does my witness.

1 THE COURT: Listen, if you think he's getting out
2 of hand, just stand up and make an objection; but I
3 haven't heard anything --

4 MR. COX: I'll also say if he appears to be
5 violating your order, you can't --

6 THE COURT: I mean, look --

7 MR. COX: -- can't rely on the judge to intercede.

8 MR. WOLFF: Yeah, I'll do that.

9 THE COURT: Here's the thing, my order on him is
10 simply to give the opinions and he can testify in an
11 area within his expertise, which is adjusting. To me
12 public adjuster, field adjuster, whoever's out there,
13 they're all using -- they're really all the same. It's
14 just who they're working for and how they're -- under
15 whose auspice.

16 MR. WOLFF: Thank you.

17 **PROCEEDINGS CONTINUED**

18 BY MS. BROWN:

19 Q. Okay. Mr. Major, I forgot where we were. You were
20 telling us about public adjusting. As part of a public
21 adjuster, you're not just determining, like a contractor
22 might, how much it's going to take to fix the building,
23 you're determining what damages were caused by the particular
24 covered peril?

25 A. That is correct. And so as an -- when I'm an

1 adjuster and I'm wearing the hat of an estimator, instead --
2 like, an estimator will go out and say it's just damaged
3 without a differentiation. Wearing that hat as an adjuster
4 I'm going out and identifying damages specific to, in this
5 case, this hurricane. So when I see an old chip, you know, I
6 don't put it in the estimate. You know when I see
7 anything -- if I see rotted wood, I don't put it in the
8 estimate because it didn't just rot from yesterday or last
9 week. So I'm making a difference between what is damaged and
10 what's not damaged from this event, this hurricane I'm
11 handling in this case.

12 Q. Okay. And public adjusting, you already mentioned,
13 is highly regulated by the Departments of Insurance in each
14 state you work in?

15 A. That's correct, yes, ma'am.

16 MS. BROWN: I'm going to offer Exhibit 111, but I'm
17 only going to offer his CV. I think the whole report is
18 in there.

19 MR. WOLFF: Just the CV itself, no objection to
20 that.

21 THE COURT: What's the number?

22 MS. BROWN: It's Exhibit 111.

23 THE COURT: It'll be admitted.

24 BY MS. BROWN:

25 Q. Mr. Major, I don't want to go through your entire

1 CV but I do want to hit some of the highlights. First,
2 you're the president and CEO of Skyline Adjusting?

3 A. Yes, ma'am.

4 Q. And that's the company that you were working for
5 when you were hired to do the adjustment for Eaux Holdings?

6 A. Yes, ma'am.

7 Q. Talk about -- tell us a little bit about your
8 educational background.

9 A. I went to -- graduated high school in 1983 and then
10 I went to computer programming school. So I went to DeVry
11 University, which I did not graduate. There were trimesters
12 and during the trimesters I went to Control Data Institute
13 which was like a top computer programming school and that
14 was -- and then since then I've gotten -- gone to Camden
15 County College, some college courses.

16 Q. And how is it that you got into -- from computer
17 programming into public adjusting?

18 A. So my father was a builder and I grew up in the
19 construction industry, and on my summer jobs and stuff I
20 worked at restaurants at night and worked for my dad. And
21 then my dad started writing estimates for an insurance
22 adjuster and then he then started writing estimates for a
23 public adjuster because he knew how much things cost, and
24 then I started doing -- because he knew an adjuster, he new a
25 couple adjusters and a public adjuster, so I started doing

1 construction work and I started doing fire restoration work,
2 insurance damage, restoration work, where I fix the
3 properties. And then in 1992 Hurricane Andrew hit and my dad
4 said I should go down and work Hurricane Andrew; and that's
5 when I started, basically, like, estimating specifically for
6 insurance claims and adjusting claims. So 1992 was my basic
7 adjusting start but coming from the construction trade.

8 And then the evolution of programs, like, at the time
9 more -- like, the insurance companies started actually using
10 programs. And then because I had a programming background, I
11 would write estimates for the insurance company adjusters on
12 their -- actually on Xactimate back in the first versions
13 when it was a DOS program.

14 Q. Okay. We're going to come back to Xactimate. Let
15 me keep going through some of your qualifications first. You
16 mentioned Hurricane Andrew in 1992 was your first hurricane
17 to write estimates for.

18 A. That's correct, yes, ma'am.

19 Q. Since then we see a list. You've worked every
20 major hurricane?

21 A. Yes, ma'am.

22 Q. Okay. How many states do you currently hold a
23 license as a public adjuster?

24 A. I believe right now including, like, the U.S.
25 Virgin Islands and territories, I think, like, 47 or 40 --

1 wherever -- I think 47 states.

2 **Q.** Okay. In addition to working as a public adjuster,
3 do you also speak or teach classes on issues related to
4 public adjusting?

5 **A.** Well, not just related to public adjusting. So I
6 teach continued education, so CE's, continued education, and
7 CLE's, which I think are lawyer phrase for education. I
8 teach on Xactimate, the use of Xactimate. I teach causation,
9 concurrent causation, like, when different things are
10 happening and how to break them apart. I teach -- I've
11 taught a couple classes on proofs of losses, like a proof of
12 loss. I taught classes on or teach classes on valuations and
13 square foot valuations and other insurance related topics and
14 estimating topics.

15 **Q.** In addition to teaching those classes, do you also
16 yourself attend continuing education classes?

17 **A.** Yes, multiple times a year every year since I
18 started.

19 **Q.** Okay. Just an estimate, over the years how many
20 claims have you worked specifically in Louisiana?

21 **A.** I have no idea. I'm going to say I did a lot --
22 now, when you say claims, so it's a little bit of a loaded
23 question because I wrote -- I worked on a claim for a guy who
24 had 22 properties so it was technically 22 claims. I wrote
25 all the estimates for the public housing for the Lower Ninth

1 Ward in New Orleans. I wrote all the estimates for those so
2 there were, like, hundreds of properties. I adjusted the
3 shops at Canal Place, which is a mall. I did Jax Brewery. I
4 did -- I don't know. I can't even -- it's, like, over a
5 hundred I guess --

6 Q. Okay.

7 A. -- in Louisiana.

8 Q. Have you ever been recognized by a court as an
9 expert in public adjusting?

10 A. Yes, ma'am.

11 Q. How many times?

12 A. Over a dozen. I've been certified as an expert in
13 state -- county, state, and federal courts in Louisiana, in
14 New York, in New Jersey, on public adjusting, insurance
15 claims adjusting, which is -- they're the same but from a
16 public adjuster's responsibility, as a damages expert, and as
17 a construction damages expert, an expert to differentiate
18 causes of loss and how, like, something -- where the water
19 came from, whether it was part of the storm or not, claims
20 handling, and then construction practices and construction
21 defects.

22 MS. BROWN: With that qualification, I would tender
23 Mr. Major as an expert in the field of public adjusting.

24 THE COURT: Traversal?

25 MR. WOLFF: Just very brief. Thank you.

TRAVERSAL EXAMINATION

BY MR. WOLFF:

Q. Good afternoon, sir.

A. Good afternoon, Mr. Wolff.

Q. So you're aware that in the context of public adjusting in Louisiana there are very specific laws that limit what you can do, correct?

A. Yes, sir.

Q. And that law is under the Insurance Code 1692 that limits you to investigating, appraising, evaluating, and reporting to an insured in relation to that claim?

A. Yes, sir.

Q. And you have a contract that you're required to have in Louisiana, the law requires that, right?

A. Yes, sir.

MR. WOLFF: This is D-65, his contract.

BY MR. WOLFF:

Q. And that's the public adjuster contract. Is that it right there?

A. Yes, sir.

Q. And you charged 475 an hour?

A. Yes, sir.

Q. And that's against a 10 percent contingency?

A. No, sir.

Q. It says the total hourly billable will not exceed

1 10 percent of the amount received?

2 A. That's correct.

3 Q. So you're capped at 10 percent?

4 A. Yes, sir.

5 Q. So if you bill up to that threshold, you could get
6 up to 10 percent or your hourly rate, whichever is less?

7 A. No, sir, not or the hourly rate. So I can only
8 charge by the hour. That's how I charge. I just charge by
9 the hour. If it turns out that -- so in this case, if the
10 insurance company, like, just worked with us and settled the
11 claim, I may have put in 60 hours. Because they didn't, I
12 put in 180 hours, whatever the numbers are. We have the
13 invoices. So at a certain point, if my hours add up to so
14 much, I'm capped. I can't get anymore money. I'm just stuck
15 with whatever that lower number is. But in this case, even
16 with the insurance company not paying and all the stuff, I'm
17 nowhere -- I'm probably, like, around half of that.

18 Q. I appreciate that response, but I thought I was
19 clear. You get 475 and you can bill --

20 THE COURT: Mr. Wolff, how is this traversal?

21 We're on his expertise right now. I think you're really
22 more getting into your cross-examination.

23 MR. WOLFF: I'll save that, then.

24 THE COURT: I would save it.

25 BY MR. WOLFF:

1 Q. All right. And it does say in this contract that
2 you are limited to the same things that the law provides,
3 that you can investigate, appraise and evaluate, and report
4 to the insured, correct?

5 A. Yes, sir.

6 Q. Okay. Have you ever had a problem with your
7 licensing anywhere?

8 A. With my licensing, no, sir.

9 Q. Have you ever had any citations or problems with
10 any state?

11 A. The only thing I had was I wrote an estimate for a
12 lawyer in Pennsylvania and they didn't -- it was their own,
13 like, family's business and they didn't pay me. So they
14 didn't pay me so I basically hired a lawyer to get my money,
15 and then they said I was adjusting without a license in
16 Pennsylvania. And I didn't have a public adjuster's license
17 at the time. All I did was write the estimate. So the State
18 sent me a letter that said cease and desist, don't adjust
19 claims, which I wasn't doing anyway.

20 Q. So there was a cease and desist from the State of
21 Pennsylvania?

22 A. Pennsylvania for adjusting claims.

23 Q. Thank you, sir.

24 A. You're welcome.

25 THE COURT: I have a question. Are you licensed in

1 Louisiana?

2 THE WITNESS: Yes, sir.

3 MS. BROWN: I offer him as an expert in public
4 adjusting.

5 THE COURT: Any objection?

6 MR. WOLFF: No, Your Honor.

7 THE COURT: He'll be accepted as an expert in
8 public adjusting.

9 **DIRECT EXAMINATION**

10 **BY MS. BROWN:**

11 Q. Mr. Major, you were telling us -- so we're going to
12 go back to when you were hired by Mr. Odom. And you told us
13 a little bit about what you saw when you got to Lake Charles;
14 but what was the state of things here, there, I guess?

15 A. So I don't know where the, like, parish lines are,
16 the county lines are. All I know is at some point the roads
17 were flooded, there were houses in the road, there was trees
18 down everywhere, power lines down everywhere. So about -- in
19 driving slow, about two hours out all the way into Lake
20 Charles was destroyed. Everything was -- like, trees were
21 just snapped in half and laying there. And I didn't even --
22 I guess the things on bargains, those big plastic things on
23 top, they were corn fields, in trees. It was a complete
24 disaster everywhere you looked.

25 Q. We just looked at your contract that Mr. Wolff put

1 up and I just want to ask you: You were hired by Mr. Odom on
2 August the 28th, 2020. That was the day after the storm?

3 A. Yes, ma'am.

4 Q. And that was what you were telling us earlier. You
5 had attended a meeting when you went to get fuel and then the
6 next day you got a call and he had questions for you?

7 A. Yes, ma'am.

8 Q. Okay. Just to be clear, this contract appears to
9 be by Four-0, LLC and the plaintiff is Eaux Holdings, LLC in
10 this case. What is your understanding of those two entities?

11 A. So Mr. Odom, Mr. Joey, had -- he had -- they were
12 both his entities, and what he explained to us was -- and we
13 were trying to find out what the name was written on the
14 policy, but what he told us was that he had changed the name
15 or something happened with partners and he'd changed it to
16 the other entity. And in, like, I think he said March of
17 that prior -- the March prior to the hurricane that he had
18 his agent change it over. So we were using -- they were both
19 interchangeable to us. So Four-0, LLC and Eaux Holdings were
20 both Mr. Joey's companies and either and/or both owned the
21 building.

22 Q. Okay. And there was some discussion -- this
23 contract that we looked at is for 620 Esplanade Street; but
24 Mr. Odom, I understand, also owns the neighboring property at
25 622 Esplanade.

1 A. That is correct, yes, ma'am.

2 Q. And I believe we heard Mr. Wolff say in opening
3 statements that there was -- originally you had said there
4 was nothing you could do to help him; but that wasn't on 620
5 Esplanade, correct?

6 A. Well, it was on 620 Esplanade but not. So what
7 happened was as an adjuster we get a call for a claim. We
8 have to see the policy. We have to see the property. We
9 have to -- and see whether we can help somebody because we're
10 not there to not help, we're there to help. So what happened
11 was Mr. Joey said he reported the loss already. He had a
12 claim number for us but he didn't have his policy. So he
13 hired us and Jade, who works in my office, she got all the
14 information. She was reaching out to the agent to get the
15 policy, to get the declaration page of the policy. So Jade
16 got ahold of me and she said -- I was in the parking lot.
17 She got ahold of me and said, "I'm looking at the policy."
18 She said, "How big is the building?"

19 And I said, "It's pretty big. It's two stories, about
20 14,000 square feet."

21 And she said, "Okay. There's \$650,000 worth of
22 insurance on it."

23 So, now, as an adjuster -- we heard them say, like, he
24 set a reserve. You go out there. Monte Jones set a reserve.
25 It's my job to know what the loss is. So you can walk up --

1 like, if somebody bumps into your car, you can get out and
2 look and say it's not a big deal or you get out and look and
3 say it's pretty bad. So for me, I saw that the roof was
4 blown off, water was running through the entire building.
5 The panels on the outside, not that they had a crack in them,
6 they were gone or they were laying on the ground smashed.
7 Part of the roof was in the parking lot and out in the field
8 across from his place. So I said you have 14,000 square
9 feet, you got about \$25, 25, \$30 or so on remediation. This
10 is how adjusters get to a reserve. You know. So you got
11 about 125, \$140 worth of damage plus the remediation. It's a
12 two, two and a half million dollar loss.

13 And then Jade is telling me that they have \$650,000
14 worth of insurance. And plus it was ACV, which is actual
15 cash value only. You don't get replacement cost. And then
16 there's a coinsurance penalty. So I was just, like, this is
17 a problem and I wasn't going to be able to help him with
18 that.

19 Q. So based on what you believed to be the insurance
20 limits, it wasn't going to be worth it for him to hire you?

21 A. That's correct.

22 Q. But that wasn't the policy for 620 Esplanade?

23 A. In the exact same conversation Jade said to me,
24 "How many square feet?" And I told her. She said, "This
25 says, like, 3,000." And then she said, "It's 622."

1 I said, "No, the address is 620."

2 Then we went -- she was going to call the agent to get
3 the 620, the correct policy. And then I went to Mr. Joey and
4 I said, "Bad news is you got a really bad policy. Good news
5 is it's not for that building, it's for a different
6 building." And there was enough insurance for the other
7 building because it's a much smaller building.

8 And then we went and sent a -- we got the policy from
9 the insurance agent and we sent the loss notice into the
10 insurance who'd reported it. The agent reported the wrong
11 building.

12 Q. And when you got the correct policy for 620
13 Esplanade, the Scottsdale policy we've looked at, you felt
14 that you could help with this claim?

15 A. Absolutely. Yeah.

16 Q. Did you also help with the 622 claim, the smaller
17 building and the smaller insurance policy?

18 A. So the answer is yes. He had, like, one piece of
19 metal that came off the building so, like, I didn't charge
20 him. We got ahold of -- because the agent filed a claim,
21 there was actually a claim. As a matter of fact, the claim
22 number is right on that document up there. And then I talked
23 to the Scottsdale guy. I told him there was only one piece
24 of flashing damage, it was under the deductible, that we
25 weren't going to make a claim. So Scottsdale closed that

1 claim out and we basically resolved that claim.

2 Q. I want to talk about your work on 620 Esplanade,
3 the building we're here about.

4 MS. BROWN: I'm going to offer Exhibits 4 through
5 7.

6 MS. WOLF: What's that?

7 MS. BROWN: 4 through 7, the Skyline estimate.

8 MR. WOLFF: No objection to the estimate.

9 THE COURT: It'll be admitted.

10 BY MS. BROWN:

11 Q. So we're finally going to look in these books that
12 have been sitting up here for two days. I want for you to
13 talk generally about your inspection, first of all. I know
14 one question that's possibly burning on some minds in here is
15 we heard multiple times Adam Lock say Monte Jones couldn't do
16 an inspection because there was no light, no electricity.
17 How were you able to do an inspection with no electricity?

18 A. So it depends on what rooms you're in. The entire
19 building with the exception of one little area was glass so
20 it was like it was as light as it is in here. In the front
21 right side of the building the roof blew off, and you'll see
22 in the photos there's little cracks of light. The metal deck
23 has holes in it so the sunlight was coming in. Where the
24 windows were busted out it was sunny. And then in the back a
25 whole section of the roof, like you're just looking up at the

1 sky. And then the remediation guys had generators, they had
2 their fuel cells, which they were bringing in fuel for the
3 generators, and there was lights all over the place.

4 Q. And was that the state of things when Mr. Jones was
5 there on September 15th?

6 A. He was there during the daytime, and Mr. Monte
7 Jones and I walked -- in the very inside of the building
8 there's, like, a couple closets that don't have lights. And
9 I had a big, like, LED light with me and we walked through
10 everything and he could see everything. It was daytime so
11 you could see.

12 Q. Okay. And you're familiar with Exhibits 4 through
13 7. This is the estimate and photographs and other
14 information we're going to go through that you prepared to
15 submit on behalf of your client, Eaux Holdings, to Scottsdale
16 Insurance?

17 A. Well, I did them, gave them to Mr. Odom. He asked
18 me to give them to Scottsdale. Yes, ma'am.

19 Q. You prepared them for Eaux Holdings?

20 A. Yes.

21 Q. And what was the purpose of putting together this
22 four-volume set?

23 A. So I'm a little different than most public
24 adjusters. We only handle a handful of claims. We don't
25 take more work than we can, like, actually do and handle

1 properly. And we do books for every claim we adjust, and the
2 goal is that -- and I get because we do cat work, we do
3 hurricane work. I get the guy that's coming out has a lot of
4 claims. He doesn't know the area he's running around. I had
5 the benefit of being there longer. They don't show up for
6 long. They're there for a couple hours or a few hours. One
7 of the gentlemen was there for a whole day. I spent days and
8 nights there. I slept in my car in the parking lot there and
9 I went through everything. The goal is that when I give you
10 the document it has everything you need in it. It has -- and
11 we'll go through it, but it has everything that an adjuster
12 needs. And by the way, Monte Jones said, "This is fabulous
13 and it's everything I need."

14 MR. WOLFF: Your Honor --

15 A. So I'm giving them everything they need --

16 THE COURT: Mr. --

17 THE WITNESS: I'm sorry, sir.

18 THE COURT: Hold on one second.

19 THE WITNESS: I apologize.

20 **BENCH CONFERENCE**

21 THE COURT: I wanted to reread his answer. It was
22 quite long.

23 MR. WOLFF: They all are. I don't want to object,
24 but that's hearsay ten ways to Tuesday. There's no
25 applicable exception here.

1 MS. BROWN: Other than he was acting as Scottsdale
2 when he --

3 THE COURT: What do you mean?

4 MR. WOLFF: He said, "And Monte Jones said."

5 MR. COX: He's Scottsdale.

6 MR. WOLFF: He's an independent guy that went out
7 there. It's hearsay testimony. It's not a party
8 opponent. It doesn't follow any exceptions.

9 MS. BROWN: He was an agent of Scottsdale. He
10 is/was a party opponent in that context.

11 MR. WOLFF: No. He's an independent adjuster.

12 THE COURT: The objection is that he's referring to
13 what Monte Jones told him as hearsay.

14 MR. WOLFF: Yes, sir.

15 THE COURT: Who does Monte Jones work for?

16 MR. WOLFF: He works for --

17 MS. BROWN: He worked for Scottsdale.

18 THE COURT: Let's back up. Who does he work for?

19 MR. WOLFF: I don't remember the name of the
20 company. It wasn't Scottsdale.

21 THE COURT: But the company was hired by
22 Scottsdale.

23 MR. WOLFF: The company was hired by Scottsdale.

24 THE COURT: Then he's an agent for Scottsdale.

25 MR. WOLFF: He is an agent, but that doesn't make

1 it an exception on the hearsay.

2 THE COURT: I don't know. He's now talking and
3 representing the company in this claim. Listen, I'm
4 going to tell you, I've had this issue with some of
5 these other --

6 MR. WOLFF: I just want to see where we are
7 because --

8 THE COURT: Well, let me just say this. The way I
9 look at these adjusters, I don't let the insurance
10 company hide behind the fact they hired some third-party
11 adjusting company because I've had them go, "Well, we
12 can't produce him for a deposition because he didn't
13 work for us." B.S. You hired the company. You're
14 responsible now for that adjuster and you're responsible
15 to produce him for a depo. They hired him. They're
16 responsible for him.

17 MR. WOLFF: We did produce him for a depo.

18 THE COURT: I know.

19 MR. WOLFF: He was deposed.

20 THE COURT: I know.

21 MR. WOLFF: And they're using this guy to offer
22 testimony of another person. It's an out-of-court
23 statement. It's being asserted for the truth and --

24 THE COURT: The only thing I heard him say so far
25 is that Monte Jones said it's fantastic.

1 MR. WOLFF: Right, but I don't know --

2 THE COURT: I guess he's saying your adjusting
3 report was fantastic?

4 MS. BROWN: Right.

5 MR. WOLFF: I get that, but I don't know where this
6 guy's going next. I really don't. You ask him one
7 question and he ends up over here or here. You never
8 know.

9 MS. BROWN: He hasn't ended up anywhere. I asked
10 him what his intent was in turning the books --

11 MR. WOLFF: Then he said, "Monte Jones said," and
12 then I stopped him.

13 THE COURT: He does ramble on, you know. He needs
14 to -- we're going to be here all dang day if he doesn't
15 start --

16 MS. BROWN: I know.

17 THE COURT: Just answering the question and quit
18 rambling. He does ramble. I will agree with Mr. Wolff
19 on that.

20 MS. BROWN: On the next break I'll tell him to
21 tighten it up a little. I'm trying to keep him --

22 MR. WOLFF: I don't want to object. And I really
23 don't care that he said, "Oh, you have fantastic books."
24 But then he's going to say, well, then he said this
25 and --

1 MS. BROWN: He's not --

2 THE COURT: We don't know yet on that.

3 MR. WOLFF: It may be. Call me paranoid.

4 MR. COX: I'd tell him to tighten it up right now.
5 Just tell him.

6 THE COURT: I'll tell him.

7 **PROCEEDINGS CONTINUED**

8 THE COURT: Mr. Major, once a question's proposed
9 to you, I would ask that you please answer the question,
10 okay, rather than kind of continuing on and elaborating.
11 There may be follow-up questions that allow you to
12 elaborate; but for purposes of the question that
13 counsel's asking you, I'd ask that you answer the
14 question specifically. Okay.

15 THE WITNESS: Yes, sir. I apologize.

16 BY MS. BROWN:

17 Q. Okay. We're going to go through what exactly you
18 provided to Scottsdale by way of these books. The first
19 section -- you have each section in this book labeled,
20 correct --

21 A. Yes, ma'am.

22 Q. -- for ease of use?

23 So we do have a section that's entitled overview photos?

24 A. Yes.

25 Q. And these were just some exemplary photos of the

1 damage to the property, correct?

2 A. That's correct.

3 Q. Okay. The next section is what you have labeled
4 your estimate?

5 A. Yes, ma'am.

6 Q. And this estimate, we're not going to go line by
7 line through it; but this is what we've heard referred to as
8 an Xactimate estimate, correct?

9 A. That is correct.

10 Q. Tell us a little bit about Xactimate.

11 A. Okay. It's an insurance program the insurance
12 companies mainly use to estimate damages. And it allows you
13 to put in a sketch and it'll -- if you -- let's say you want
14 to put carpet in a room. It'll automatically calculate the
15 amount of carpet and it'll give you their version of a price
16 that they've assigned to it. And it allows you to put your
17 own notes in, your own values or your notes to an item, and
18 then you can put your own measurements in. And it gives you
19 the room measurements, all the values. And you put the scope
20 in. It'll show you the sketch. And you can put photographs
21 in.

22 Q. And, for instance, just by way of example, one of
23 the rooms that we've seen on Page 4 is the reception area,
24 101 on the first floor?

25 A. That's correct.

1 Q. And here, this little sketch is a scale drawing
2 with the actual measurements of that room?

3 A. That's correct, yes, ma'am.

4 Q. And you measured it and you input those numbers,
5 correct?

6 A. Yes, ma'am.

7 Q. Okay. And there's similar sketches for all the
8 areas. This was a corridor, a hall area. Similar sketches
9 for every room in the building?

10 A. Yes, ma'am.

11 Q. And to be clear, for every room in the building
12 that had damage?

13 A. That's correct.

14 Q. And within each of those rooms, for any that aren't
15 familiar with Xactimate, there is a very specific line item
16 detailed estimate of every piece of damage in the room,
17 correct?

18 A. That's correct, yes, ma'am.

19 Q. And these prices, where do these prices come from?

20 A. So they come from Xactimate.

21 Q. Okay. They're the same prices the insurance
22 company would use in this program?

23 A. Yes.

24 Q. Okay. And your estimate ends up having 1,869 line
25 items, correct?

1 A. Yes, ma'am.

2 Q. And the estimate is -- just the estimate portion of
3 this book is 152 pages?

4 A. That's correct.

5 Q. While we're on this page, there was some discussion
6 this morning about this \$261,500 market conditions if
7 incurred. What is that?

8 A. The price list that the insurance company used and
9 I used in this estimate is a September price list. It came
10 out before the hurricane so it didn't know what it was going
11 to cost after a hurricane. And like Mr. Lock said, some
12 material prices went up 400 percent. So we didn't know what
13 prices were going up. We knew that not many were going down.

14 Then at the same time Mr. Joey had two contractors that
15 he was trying to get in to see who could do this job in a
16 timely manner. One was a local -- not local to Lake Charles
17 but was local to Louisiana, and the other one was from
18 Missouri. And if he hired the Missouri contractor, there was
19 going to be an increase. Holding aside all the prices that
20 went up because that's what that reflects, there's also an
21 increase because that contractor from Missouri is going to
22 charge to put his people in a house somewhere, you know, put
23 them in hotels and move them back and forth and they charge
24 for that. So what I did was I put this in here as market
25 conditions and it's under a coverage that says if incurred.

1 So I'm just basically saying here's an allowance if it
2 happens. It's to cover that if it happens.

3 Q. Okay. Not expecting Scottsdale to pay that
4 particular line item at that point?

5 A. No, ma'am.

6 Q. And the total of that estimate is \$2,196,188.79?

7 A. Yes, ma'am.

8 Q. We can easily back out the 261,500 if we didn't
9 want to pay it yet, if it hadn't been incurred?

10 A. Yeah. There's actually total pages in the estimate
11 that have the total and the if incurred total. So the math
12 is done, and Xactimate allowed me to do that.

13 Q. Next section in your book is the incurred to date,
14 and what are these items?

15 A. They were the actual -- I think it was Crest went
16 out and did a temp roof, and that was actually incurred. And
17 there's the shrink wrap cost there. And I believe, if I'm
18 not mistaken, it may have been either just Crest or Ken
19 Seiders also. So, yeah, so Crest -- it was just whatever
20 was -- at that very time we were printing it, what invoices
21 we had that were incurred.

22 Q. Okay. The next volume of the book begins what is
23 labeled photos?

24 A. Yes, ma'am.

25 Q. You heard Mr. Lock testify this morning about your

1 photos not being labeled?

2 A. I did.

3 Q. Did you hear that?

4 A. Yes, ma'am.

5 Q. Is that true?

6 A. It's un -- not truthful.

7 Q. There are -- do you know how many photos there are
8 in these books?

9 A. There's -- I think there's around 1260 or 1200
10 some -- well, there's, like, 10 or 12 photos that are not
11 labeled that are the highlight photos, those review photos.

12 Q. The ones we looked at in the beginning.

13 A. But all the ones that are in Xactimate, they're
14 labeled by general photos, then there's a section -- so every
15 single room in there, like we used Room 101, there's photos
16 of Room 101 and they say on there, "First floor, 101."

17 Q. And those general photos we looked at are also
18 contained in the labeled photos?

19 A. Yes, ma'am.

20 Q. And those were done -- I think you said or Mr. Lock
21 said Xactimate allows you to do this with the photos and
22 organized them and label them, and you did that?

23 A. Yes, ma'am.

24 Q. And I can literally just flip to any page and
25 you've got these photos?

1 A. Right there it says "First floor, PLG chase, 143,"
2 and that is the room. And that corresponds to our sketch.

3 Q. Okay. Not going to go through all 1200 photos
4 either, but I do want to ask you about some of them. And
5 just to be clear before we get into the photos, the number
6 that we looked at, the \$2.1 million total, you said this
7 earlier, but this estimate is only for storm-related
8 damage?

9 A. That's correct. We didn't put in -- there was,
10 like, four sheets of plywood that were rotten. We didn't put
11 in for those. We didn't put in for any upgrades. We didn't
12 put in for anything.

13 Q. You did see some things at the property that pre --
14 this was not a perfect building?

15 A. 30-year-old building that has dents in it, cracks
16 in it, yeah.

17 Q. And contrary to what Mr. Lock said this morning,
18 you never told him it was a perfect building?

19 A. Not in any way, shape, or form. What we said to
20 Mr. Lock was it was a well-maintained building, and then what
21 we said to Monte Jones was there's some issues. I walked him
22 to the old cracks. I showed him where the old cracks were
23 repaired because they were -- somebody re-caulked the panels
24 and screwed them in so they were okay. And I showed him all
25 those areas.

1 Q. Okay.

2 A. I also showed Louis Collisson.

3 Q. Okay. There was some discussion this morning with
4 Mr. Lock about an inspection report when Mr. Odom purchased
5 the property. He's going to testify, but did you understand
6 that he had done the majority of the repairs that were
7 indicated to be done in that inspection report prior to the
8 storm?

9 A. Yes. You can see photos in the report that show a
10 different floor because he'd put a new floor in before the
11 storm, a different ceiling tile, and other things that was
12 under based on the fact that I know it was different and
13 Mr. Odom had told us subsequently they made repairs.

14 Q. Okay. I want to go back to the plywood sheathing.
15 There was some indication that there was some rotted plywood
16 and sheathing. How much did you say you found that was
17 actually pre-existing damage?

18 A. So in one -- in the upstairs, when you go up the
19 steps you make a right, there's a hallway and there's a
20 conference room on the right. That outside wall which faced
21 622 Esplanade, that had, like, a whole area that was rotten.
22 That was where the old repairs were done on the outside of
23 the building. And then upstairs there was a couple little
24 rooms where, like, the glass was that some water was coming
25 through so there was, like, maybe a quarter of a sheet that

1 had rotten wood and some in a couple areas.

2 Q. I want to look at a few pictures related to the
3 plywood sheathing and indication that it was rotted prior to
4 the storm. This is Photograph 134 from your book at Page 67
5 of Volume 2. Tell us what we're looking at in this picture.

6 A. That is on the first floor. It's the RAC
7 conference room, 119. I can touch this?

8 Q. You can, I think.

9 A. So this area here is the plywood that is behind the
10 siding on the outside, and it's all good plywood. None of
11 it's rotted.

12 Q. Show you another photograph. Tell us what we're
13 looking at here.

14 A. So this is the --

15 Q. Interrupt you. I'm sorry. It's Photograph 449 on
16 Page 225. Go ahead and tell us what we're looking at here.

17 A. It's the first floor catwalk and it faces the
18 parking lot. It's one of the walls that doesn't have windows
19 but -- and by the way, this is -- as much light as you see in
20 there right now, that's just because it's daytime. That's
21 how we were able to see. But on this wall there was some
22 rusted studs, metal studs, and there was a little bit of rot,
23 like, maybe a piece of plywood worth of rot; but the rest of
24 it is no issue, no rot.

25 Q. And those items that you just indicated the little

1 bit of rot and the rust wasn't included in your estimate?

2 A. Nowhere in the estimate. We never claimed it.

3 Q. The next one I'm going to show you is
4 Photograph 492 on Page 246. What are we looking at here?

5 A. This is Office No. 3 and it's the second floor.
6 It's in the back because you can see -- through the window
7 you can see the trees and stuff in the back. That's the
8 neighboring property. And below the windows and all the way
9 across is good plywood.

10 Q. Show you another one.

11 THE COURT: Hold on one second. Are y'all doing
12 okay? You want to keep going a little bit longer before
13 we take an afternoon break? Want to be sure and check
14 on you. Okay. Go ahead, Ms. Brown.

15 BY MS. BROWN:

16 Q. Show you another. I'm trying to find a few
17 examples. I picked a bad one. This one is Picture 666. It
18 is the second floor office. And what are we looking at in
19 this one?

20 A. It's Office 17. This is actually -- you see
21 there's one window to the left? The window to the right
22 completely blew out and was laying in the parking lot, but
23 underneath the windows is the corner of the building and
24 there's no rotted wood. It's all -- all the plywood's good.

25 Q. I don't want to look at every sheet of plywood; but

1 there are dozens, if not more, photographs of perfectly good
2 plywood that was behind the Sheetrock in this building?

3 A. The majority of it was perfectly fine, no problem.

4 Q. And the implication that all the plywood was rotted
5 before the storm is just false?

6 A. It's not true. There was some rot.

7 Q. Let's move on from plywood and talk about -- there
8 was also some discussion with Mr. Lock about the panels on
9 the outside of his building. Describe for us briefly what
10 type of exterior this building had prior to Hurricane Laura.

11 A. So on the plywood was tar paper and then there was
12 a metal aluminum frame that ran all the way around the whole
13 building screwed onto the plywood. And then there was these,
14 like, ceramic coated cementitious panels. So it wasn't
15 paneling. They were made -- there was a company in Glasgow
16 that made them. And they were sort of like cement and they
17 had a baked on color finish. And they were ordered and
18 shipped and delivered and put up in a specific size so
19 when -- whoever designed the building, all the stripes you
20 see in all the panels, they're all pre-manufactured panels
21 that wind up getting -- there's no screws from the outside
22 except for where they made repairs because you can't put the
23 panel on any other way. It's got to be glued to this metal
24 strip, and the metal strip has to have weather proofing, like
25 a weather proofing strip, caulking, then the panels go on,

1 then every crack gets caulked in with, like, a backer rod and
2 a caulk to prevent water from coming in.

3 Q. Okay. And you heard this morning Mr. Lock
4 testified that these panels were cracked prior to the storm,
5 and what is your response to that?

6 A. There definitely was some panels that were cracked
7 prior to the storm.

8 Q. Okay. That is not the reason that the panels made
9 it into your estimate, is it?

10 A. No, ma'am.

11 Q. Okay. I want to look at some photographs of the
12 paneling, and let's start with -- in Book 3, Picture 768 is a
13 photo. Tell us what --

14 A. So --

15 Q. -- what we're looking at here.

16 A. So I just want to note if you look up to the top
17 left it says "exterior panels." So there's a whole section
18 in these books just for exterior panels, one just for the
19 roof, one just for other things. So you're looking at --
20 I'll orient you. The very top up here, that's the first
21 floor of the building and this is the ground. Obviously
22 that's grass. This panel here, this was on the building
23 connected to the roof above the second floor and it's laying
24 on the ground. So it was broken off the building and it's
25 still -- actually, the black down here is part of the roof

1 that we're looking at, the upside down part of the roof
2 laying on the ground with the panel attached to it.

3 Q. Okay. Show you another one that's in the exterior
4 panel section. Okay. This is Photograph 776 on Page 388.
5 What are we looking at?

6 A. That's another piece of the panel, like, that just
7 smashed and fell off the building or got sucked off or blew
8 off the building.

9 Q. Photograph 778?

10 A. 778 is another -- a different piece of panel that
11 blew off the building. And what you'll see right here, that
12 is that aluminum piece I was talking about. And you can see
13 if you zoom in, I don't know if I can zoom, but if you zoom
14 in there's a hole right here in the aluminum and this is that
15 caulk and the weather stripping. So that's -- this was --
16 and this over here is another piece of this metal. So
17 there's a metal like frame screwed onto the building and the
18 panels attached to it. It all ripped off. So the screws
19 ripped out of the plywood, the panels ripped off, however
20 they came off. That's what it is.

21 Q. I think if you hit that clear button it will erase
22 all your highlighting.

23 A. I got it. Thank you.

24 Q. The next page of photographs we're looking at is
25 Page 406, and just go ahead and tell us what --

1 A. The top photograph are pieces -- additional pieces
2 of panel that broke off the building laying in the grass and
3 then the bottom is -- there's, like, an electrical -- when
4 you look at the overview photos of the building the panels
5 continued over, like, a little shed area that the electrical
6 was in. And the walls just ripped off the building and they
7 had panels on them, too.

8 Q. One more panel photo. What are we looking at on
9 Page 407?

10 A. The top one is another piece of panel looking at
11 the backside of it with the metal attached to it still that
12 ripped out, and the bottom piece is the stamp from the
13 manufacturer from Belgium that made these panels.

14 Q. So we're not talking about some pre-existing cracks
15 in the exterior paneling?

16 A. Not at all. They weren't cleaned.

17 Q. Okay. And these panels, the ones that we saw that
18 were off the building in the grass, they couldn't just be
19 reattached to the building?

20 A. No, ma'am.

21 Q. And am I correct in my understanding that these
22 panels aren't even manufactured anymore?

23 A. They are not manufactured anymore.

24 Q. So it wouldn't even be possible to replace only
25 those that had come off?

1 A. Not any way, shape, or form. And you can't attach
2 panels to the wall the way they did back in the '70s.

3 Q. Okay. Couple more things in your estimate, I
4 think. And the estimates, the books that we are looking at
5 today with the labels, the room references, the numbers, this
6 is exactly the form that was provided to Monte Jones and to
7 Scottsdale beginning on September 15th of 2020?

8 A. That's correct. We printed multiple copies of the
9 books and had them FedExed down to Mr. Joey, and then we gave
10 a set to Monte Jones. And then we were -- we told him we
11 were going to mail a set to the insurance company, and then
12 he'd told us that they wanted it electronically so we scanned
13 them all and sent them the books electronically. And then we
14 gave Louis Collisson from Grecco, we gave him a set of books.

15 Q. Okay. In addition to the photographs of the actual
16 damage, you also include pictures that are labeled
17 thermography. What are these?

18 A. That's correct. So we used a FLIR. It's thermal
19 imaging. It doesn't tell you what's wet. It tells you
20 temperature change. But when there's something that's wet
21 and the ambient temperature is colder it will be colder
22 because the wet is colder. So these were the thermal images
23 showing what was still wet at the time that a lot of the
24 remediation had been done. They were still in the process,
25 but there's a whole section of thermal images.

1 Q. Okay. I asked you earlier how many photos. Looks
2 like 1,260 is the last one. So after those 1200 photos, the
3 next section of your books is called Plans and Details. What
4 are we going to find in this section?

5 A. Any question you could possibly have about that
6 building, the type of carpet, the blueprints, the way the
7 building's constructed, the products that are in the
8 building. There's -- one of the products is Siplast. It's
9 the roof part. And it gives the underwriter laboratory's
10 ratings on the fire ratings, gives all the specifications in
11 detail. It gives the blueprints, the floor plans, the pitch
12 of the roof. It gives the wall details, how they're built
13 out, how it's constructed. It gives electrical plans. It
14 gives the brand and the model number and the amount of ounces
15 of the carpet.

16 Q. That's what I wanted to look at. So there are --
17 like you said, there are sketches of the room?

18 A. So if you go back, that sketch there is what I did
19 in Xactimate. That is an Xactimate sketch. So when you saw
20 the little drawings of the rooms, they're these drawings.

21 Q. This is whole building all put together?

22 A. Yep. And then you go into that still, and then
23 here you go into the actual blueprints of the building. It's
24 all the details, everything you can need that they built the
25 building.

1 Q. These are the original blueprints?

2 A. Yes, when the building was built and then there's
3 blueprints from when it was fit out for Homeland Security for
4 GSA.

5 Q. Okay. Then we come to this schedule of room
6 finishes, and I think you were explaining this; but I want to
7 zoom in on part of it so you can tell us what this is.

8 A. So for every single room in the estimate on the
9 left it says 101, 102, and those, and then the room it is and
10 the type of tile it is. And so, for example, this is in the
11 informant's interview room. It's a 22-ounce Socrates II
12 carpet made by Patcraft.

13 Q. And the numbers, for instance, the 103 informant's
14 interview room, that's going to correspond with your
15 estimate?

16 A. Yes, ma'am, it's going to correspond with the
17 estimate, line items in the estimate to say how much of each
18 room, and also the photographs. So the photographs are
19 pre-remediation, during remediation, and post-remediation.
20 But they're all labeled, too, per room.

21 Q. And this is -- just to round out what you said,
22 this is the plans from when the renovations were made for
23 Homeland Security in 2011, correct?

24 A. Yes, ma'am.

25 Q. Is there anything else you can think of that

1 Scottsdale would need to adjust this loss other than what you
2 provided in these books?

3 A. For them to make a payment, not at all.

4 Q. Were you asked for anything else?

5 A. I was never asked for anything else.

6 Q. Do you know if Mr. Odom was asked for anything
7 else?

8 A. He was not asked for anything else.

9 Q. And you were involved in all of the discussions
10 with Scottsdale on behalf of Mr. Odom?

11 A. Yes, ma'am.

12 Q. Okay. One issue that we heard Mr. Lock had with
13 your estimate was that it only provided a replacement cost
14 without any depreciation to get to actual cash value.
15 Explain -- it's easy enough in Xactimate to just add the
16 depreciation, correct?

17 A. Yes.

18 Q. Why didn't you do it?

19 A. So just waive your hand if I'm going off because I
20 don't know how to say it. So Xactimate, Mr. Lock was
21 correct, there's a profile for a contractor and one for an
22 insurance company. I have the insurance company one. We use
23 the same exact Xactimate. The claims I've handled with
24 Scottsdale and the claims I've handled with Nationwide,
25 because they own each other, their depreciation that they use

1 is reasonable. It's -- they have sort of their own program.
2 When Monte Jones went out there I said, "Here's a flash drive
3 with the ESX." I offered it to Louis Collisson. So I said
4 to Monte Jones and I said to Louis Collisson and I said to
5 their next guy that was out there who was really dealing with
6 what it actually cost, "You can depreciate whatever you want.
7 I agree to Nationwide's depreciation because it's realistic."
8 I never have a problem with it. So I turn around and I say,
9 "Here's the estimate. Do you want the ESX?" He puts the
10 ESX -- he can take it, put it in his program, just run
11 depreciation, that's it, and auto calculates everything.

12 Q. So, for instance, in this case we did the math with
13 Mr. Lock. Grecco's estimate had a 22.3 percent depreciation
14 applied, and you'd have been fine if he would have applied
15 that to your estimate?

16 A. Absolutely.

17 Q. And part of the reason is because under a
18 replacement cost policy, once Mr. Odom had the work done, he
19 was going to get that depreciation back?

20 A. That's correct. And what Mr. Lock had said
21 regarding depreciation was it wasn't just a flat rate. So
22 you could depreciate the panels because they were -- had some
23 cracks in them so you would depreciate them more, but the
24 perfectly good vinyl floor that was in the hallway would take
25 a low depreciation. But I was fine with whatever

1 Scottsdale's depreciation was.

2 Q. And that is the way that Scottsdale would account
3 for the things like you said, the panels they think were old,
4 the roof being old; they would just apply heavier
5 depreciation of those items?

6 A. That's correct.

7 Q. Okay. We talked -- I talked with Mr. Lock about
8 the Encore Construction contract for 1.36 million, and when I
9 put the numbers of incurred cost up we only accounted for
10 1.33 million. And I want to know if you knew why there was
11 that reduction in what's being claimed as part of the
12 insurance claim?

13 A. Why the reduction in what they were --

14 Q. In the Encore -- we're not seeking the full Encore
15 contract. We're seeking --

16 A. Correct, because Encore did work that wasn't part
17 of the claim so he -- they charged Mr. Odom separately.

18 Q. Okay. And, in fact, some of that money that we
19 took out was for the repair of some of that plywood we were
20 talking about that was already rotted?

21 A. That's correct. So Encore still did the work and
22 they did some betterments, but he paid separately.

23 Q. Okay. We heard that Monte Jones -- Mr. Lock
24 testified that in his notes Monte Jones made a comment about
25 taking the building to the studs. Does your estimate include

1 taking the building to the studs?

2 A. Well, in certain areas because the building, when
3 Monte Jones got there, was already to the studs. The
4 remediation -- there was an environmental guy who moisture
5 mapped everything who went in, said it was wet, and the
6 remediation guys took it out. And if the remediation guys
7 could dry it without taking it out, then the drywall was
8 still there. When you look at my photos you'll see some
9 walls that are not to the studs because they were able to be
10 dried, and the ones that couldn't were taken out to the
11 studs.

12 Q. I want to talk about Scottsdale's inspections of
13 the property. Were you there on behalf of Eaux Holdings
14 every time someone from on behalf of Scottsdale came to
15 inspect the property?

16 A. Yes, ma'am.

17 Q. And did Mr. Odom and Eaux Holdings always
18 accommodate a request for an inspection by Scottsdale?

19 A. Yeah, with the exception of one time where Wardlaw
20 said, like, "We're there" or "We're going to be there
21 tomorrow," and we just said, "You can't just call us and say
22 you're going to be there tomorrow." We were down in the
23 area, but we just said you had to make an appointment. They
24 told us when they wanted to come and we made the appointment.

25 Q. Wardlaw -- just to refresh everyone's memory,

1 Wardlaw was the company hired to review the mitigation bill?

2 A. That is correct.

3 Q. Okay. So let's start with the first inspection by
4 anyone on behalf of Scottsdale. That was on September 15th
5 and that was Monte Jones, correct?

6 A. Yes, ma'am.

7 Q. At the time that Monte Jones came to the property,
8 we talked about the issue with the electricity, but at that
9 point the remediation work had already been done, correct?

10 A. Yes. There was still some equipment in there
11 keeping things like -- it's yes, they dried; but it's
12 Louisiana so -- and it's humid so if you don't keep something
13 running it's just going to get nasty again. So there was a
14 little bit of equipment in there still.

15 Q. Okay. Were you -- did anyone on behalf of
16 Scottsdale see the property in its actually damaged,
17 unmitigated state?

18 A. If they looked at the photos, yes, but not in
19 person.

20 Q. Okay. You heard the testimony and saw Mr. Lock's
21 notes that Monte Jones believed the building was -- needed to
22 be taken to the studs and was going to be at least
23 1.5 million to repair. Is that consistent with what Monte
24 Jones told you at his inspection?

25 MR. WOLFF: Your Honor, same objection.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BENCH CONFERENCE

THE COURT: What's the objection?

MR. WOLFF: Well, the witness is available. He's been deposed. They're offering that for an out-of-court statement by this individual for the truth of the matter asserted. The guy was available to testify. We took his deposition. We have that deposition. He denies he said it.

MS. BROWN: Well, it's not an issue of whether he's available because it's under the statements that are not hearsay section and it clearly says the statement offered against an opposing party made by a person whom the party authorized to make statement on the subject. He was their authorized representative.

MR. WOLFF: Authorized to make statements --

MS. BROWN: Authorized to say things Scottsdale --

MR. WOLFF: He can report, advise, and evaluate but he cannot --

MS. BROWN: Also was made by --

MR. COX: Read the next one.

MS. BROWN: -- made by the party's agent on a matter within the scope of the relationship.

THE COURT: I will say this. This Monte guy, I don't care that he was hired by a third party, he was -- Scottsdale hired him. He is a representative of

1 Scottsdale on this property adjusting this claim for
2 Scottsdale. So that whole line -- now, the question on
3 whether or not -- I think he can say it. Objection's
4 overruled.

5 **PROCEEDINGS CONTINUED**

6 THE COURT: You can answer the question. The
7 objection's overruled.

8 BY MS. BROWN:

9 Q. So would you like me to re-ask the question?

10 A. Yes, please. I'm sorry.

11 Q. I was asking you about Mr. Lock's notes where
12 Mr. Jones indicated that he believed the loss was going to be
13 at least \$1.5 million. Was that consistent with the
14 conversations you had with Monte Jones at the inspection?

15 A. It is. My contention was the loss was going to be
16 higher and I was asking for a million dollar advance. He was
17 sort of a little stuck on some of the pricing, but he was
18 definitely -- I thought he was going to get to 2 million, no
19 problem; but he was definitely --

20 THE COURT: Hey --

21 THE WITNESS: I'm sorry.

22 THE COURT: -- answer the question and don't
23 speculate.

24 THE WITNESS: Yes, sir.

25 ///

1 A. Yes, that or more.

2 BY MS. BROWN:

3 Q. The next time somebody was out at the property was
4 in October and Scottsdale sent a building consultant from
5 Grecco; is that correct?

6 A. There was another person for Scottsdale at the
7 September 15th meeting.

8 Q. Okay. Who was that?

9 A. He brought a roofer with him. Monte Jones brought
10 a roofer with him.

11 Q. Okay. He was there with Monte Jones?

12 A. Yes, ma'am.

13 Q. Okay. And at that time they couldn't actually get
14 on the roof, right, because it was shrink wrapped?

15 A. Yes, ma'am.

16 Q. So the next inspection is in October and that's
17 Louis Collisson with Grecco?

18 A. Yes, ma'am.

19 Q. And you were there for his inspection?

20 A. Yes, ma'am.

21 Q. How much time did he spend at the property?

22 A. Like, during the daytime. It wasn't a long day.
23 It was sort of like a -- probably, maybe, six to seven hours.

24 Q. Okay. And you received a copy of his estimate and
25 saw the payments that were made based on that estimate,

1 correct?

2 A. Correct.

3 Q. And I don't want to go through all the numbers
4 again, but it was about \$468,000 ACV payment?

5 A. That's correct, yes.

6 Q. Now, after that inspection -- and that payment was
7 November 22nd of 2020?

8 A. Yes.

9 MS. BROWN: I want to offer Exhibit 19. No, I'm
10 not. That's the wrong number.

11 MS. WOLF: We have an objection to Exhibit 19.

12 MS. BROWN: That's the wrong number.

13 THE COURT: That's the wrong one.

14 MS. WOLF: I'm sorry.

15 THE COURT: She changed her mind.

16 MS. BROWN: Save it.

17 THE COURT: Ms. Brown.

18 MS. BROWN: Pardon?

19 THE COURT: Getting close. We're going to need to
20 take an afternoon break. But if you're getting near the
21 end of your direct, I'll let you finish.

22 MS. BROWN: How do you define near? I'm not far.
23 I don't want anybody to be uncomfortable if you want to
24 take a quick break.

25 THE COURT: No, I'm just saying 20 minutes, 10

1 minutes.

2 MS. BROWN: Yes.

3 THE COURT: I want to find the natural break but
4 also feel like we need to take an afternoon break.

5 MS. BROWN: I think 20 max.

6 THE COURT: Ladies and gentlemen, how you doing?
7 Okay. We're going to take a break. They run the show.
8 All rise for the jury.

9 (Jury exits courtroom.)

10 THE COURT: Anything else at this moment,
11 housekeeping?

12 MR. COX: No, Your Honor.

13 THE COURT: Everybody take their little quick
14 break.

15 (Recess is taken.)

16 THE COURT: Before we bring in the jury, going to
17 remind everybody you're on the clock and you're using a
18 lot of your time. You haven't even finished two
19 witnesses. Realize your time is clicking so you're
20 going to be limited on cross-examination because when
21 you're up there cross-examining somebody your clock's
22 running. I'm telling you, I think you need to move this
23 thing along. Plus, I'll tell you, I think the jury is
24 falling asleep. I saw one of them falling asleep back
25 there. So I would suggest let's get rolling.

1 MS. BROWN: I'm trying.

2 THE COURT: Giving you a little tip. My
3 observation. Take it for what it's worth. Let's get
4 our jury. We're going to finish by Friday. This case
5 is going to be over.

6 (Jury enters courtroom.)

7 THE COURT: Okay. You may go ahead.

8 BY MS. BROWN:

9 Q. Going to ask you this. We talked about you being
10 present for the Grecco inspection?

11 A. Yes, ma'am.

12 Q. And had you had experience with Grecco prior to
13 this claim?

14 A. Yes, ma'am.

15 Q. What is Grecco's role in the adjustment of an
16 insurance claim, typically?

17 A. They serve as building consultants to the field or
18 staff adjuster.

19 Q. Okay. Did you consider their estimate to grossly
20 under value the damages in this case?

21 A. Yes, ma'am.

22 Q. Is that what you expected when you knew Grecco was
23 going to be involved?

24 A. Hundred percent, yes, ma'am.

25 Q. The last person to come to the property on behalf

1 of Scottsdale was a gentleman by the name of Granger Stuck
2 with J.S. Held?

3 A. Yes.

4 Q. You were there for that inspection as well?

5 A. Yes, ma'am.

6 Q. And that one took place in 2021 after litigation
7 had been filed, correct?

8 A. Yes, ma'am.

9 Q. And at that point, when Mr. Stuck came to the
10 property, I anticipate we're going to hear from him this
11 week, not only had the remediation been done, but the
12 construction, the rebuild, was substantially complete at that
13 point?

14 A. Substantially, yes. Correct.

15 MS. BROWN: I'm going to offer Exhibits 33 and 50.

16 MS. WOLF: Say again which exhibits.

17 MS. BROWN: 33 and 50.

18 MS. WOLF: No objection to 33. I'm sorry. What
19 was the other number?

20 MS. BROWN: 50.

21 MS. WOLF: No objection to 50.

22 THE COURT: They'll be admitted.

23 BY MS. BROWN:

24 Q. Mr. Major, I don't want to spend a lot of time with
25 this; but after the Grecco estimate was received in November

1 and the payment was made, November 22nd of 2020, Skyline
2 continued to attempt to communicate with Scottsdale and in
3 particular Mr. Lock about this claim, correct?

4 A. Yes.

5 Q. And about -- specifically about the issues that
6 you-all had with the amount of the Grecco estimate?

7 A. Not just the amount, the missing scope and other
8 things, yes.

9 Q. And to be fair, getting a low estimate from an
10 insurance company or their consultant or adjuster is not
11 unusual; it's part of the adjustment process?

12 A. That's correct.

13 Q. And so we have an e-mail here at Bates No. SIC1724
14 from November 23rd, immediately after the payment, already
15 raising issues. There doesn't appear to be consideration
16 given to the actual cost on the roof. There's another e-mail
17 in the same exhibit the next day from November 24th of 2020
18 following up with several bullet pointed issues, and we don't
19 need to get into the details of them. But this is just to
20 show you were continuing to try to engage with Scottsdale
21 after November 22nd, 2020?

22 A. That's correct.

23 Q. Okay. And this is all the way -- this is the last
24 part of Exhibit 50. December 24th, 2020, "Been over a month
25 since we've heard anything from you." Again, this is just

1 Skyline trying to continue adjusting the claim?

2 A. That's correct.

3 Q. And Exhibit 33 is yet another e-mail in that
4 timeframe from December 22nd again raising issues and
5 providing information to Scottsdale to try to get them to
6 continue adjusting the claim?

7 A. That's correct, in addition to multiple phone
8 calls.

9 Q. Correct. And I think what you told me, correct me
10 if I'm wrong, is that there were at least 16 e-mails total in
11 addition to phone calls that went unanswered between November
12 22nd and at least February of 2021?

13 A. That's correct. Completely zero response.

14 Q. Okay. Did you feel that Scottsdale was even still
15 adjusting the claim at that point?

16 A. We were questioning that.

17 Q. You're familiar with the costs that Mr. Odom has
18 incurred to date?

19 A. Yes, ma'am.

20 Q. You're also familiar with, we mentioned Mr. Stuck,
21 with his estimate and opinions that he's rendered in this
22 case?

23 A. Yes, ma'am.

24 Q. You understand that even Mr. Stuck, who is
25 Scottsdale's guy, believes that there is some scope that's

1 not yet been paid by Scottsdale related to the windows?

2 A. That's correct.

3 Q. Okay. And even Mr. Stuck believes that that's at
4 least \$159,000, according to what he has -- reports he's
5 issued in this case?

6 A. Correct.

7 Q. So these costs, the \$2,031,893.50, don't include
8 159,000 that even Scottsdale agrees still needs to be paid?

9 A. That's correct.

10 Q. Mr. Major, you heard yesterday and today references
11 to this claim as being complex. Do you consider this to have
12 been a complex claim?

13 A. No, ma'am.

14 Q. That's all the questions I have.

15 A. Thank you.

16 MR. WOLFF: They're going to get early dinner.

17 THE COURT: All right. Mr. Wolff,
18 cross-examination.

19 MR. WOLFF: Thank you, Your Honor.

20 **CROSS-EXAMINATION**

21 **BY MR. WOLFF:**

22 Q. Only because it's fresh in my mind. The windows
23 you're saying are outstanding, want to make sure I'm
24 understanding you right. You're saying the windows,
25 something related to this claim that remains outstanding?

1 A. Yes, sir.

2 Q. Okay. And were the windows all damaged from the
3 storm?

4 A. It's a window system. It's a ribbon system. There
5 were certain windows that were blown out, certain windows
6 that were smashed, certain windows that were cracked; but the
7 framing of the window system, the components are not made
8 anymore --

9 Q. And --

10 A. -- so the window system still needs to be replaced,
11 which Scottsdale agrees to.

12 Q. Just so it's clear, you're telling the jury that
13 Mr. Stuck's analysis does not include the window system?

14 A. No, I'm not telling the jury that, sir.
15 Mr. Stuck's analysis concludes that the window system is
16 damaged and needs to be replaced. It just has not been done
17 yet.

18 Q. But he's included that in his estimate?

19 A. There's two numbers. There's one with and one
20 without. Yes.

21 Q. Okay. We'll let Mr. Stuck -- do you know
22 Mr. Stuck? Have you met him before?

23 A. Only at the -- Mr. Odom's, Mr. Joey's place when he
24 showed up.

25 Q. Do you know what kind of work he does, Mr. Stuck?

1 A. I mean, other than what he's doing here, I don't
2 know what else he does.

3 Q. So you haven't -- you don't know his qualifications
4 one way or another, do you?

5 A. No, I don't.

6 Q. Okay. We can talk about that later. So when you
7 first got out there, and you explained that, you don't need
8 to explain it again, you looked at -- there was two
9 buildings, one at 622 which was Mr. Odom -- I guess Eaux
10 Holdings or Four-0, whichever one, the new office building he
11 had, and then this building we've been talking about at 620,
12 right?

13 A. No, sir. I looked at 620 initially.

14 Q. They're right next to each other?

15 A. Yes, sir.

16 Q. And the new office building he has had very little
17 damage, new, very little damage?

18 A. Yes, sir.

19 Q. All right. And then the bigger building we've been
20 talking about, it had the damage and we've looked at it all,
21 right?

22 A. Yes, sir.

23 Q. And I just want to be clear because I got a little
24 bit confused. When you were out there you looked at that
25 older building, the one we've been talking about, and you

1 realized it had a high depreciation?

2 A. No, sir.

3 Q. You did not? Is that what you're saying?

4 A. I think you have it a little bit confused. If you
5 want, I can explain it, or I can answer your questions.

6 Q. Let me rephrase because maybe I asked a bad
7 question. Did you think that that building from 1976 had
8 depreciation to it?

9 A. Oh, yes, sir.

10 Q. Okay. And you did not estimate the level of that
11 depreciation, did you?

12 A. I did not do a calculation for that, no, sir.

13 Q. You did think that it had a high depreciation
14 because of its age?

15 A. No, sir.

16 Q. Do you want to explain that?

17 A. Yes, sir.

18 Q. Okay.

19 A. So the building itself, and as Mr. Lock said, it's
20 not one global number. So something that's in the building
21 that's new, like he installed a new floor, that has a low
22 depreciation, not just because of its age, because of its
23 condition.

24 Q. Sure.

25 A. The panels on the building and the roof would have

1 a higher depreciation. And in my assessment, initial
2 assessment, knowing that the policy that I was looking at for
3 622 but not knowing it at the time, it had \$650,000 worth of
4 coverage and 80 percent coinsurance which means it had a very
5 high deduction. So there would be depreciation which is
6 normal in everything. This carpet right in front of you has
7 some stains on it. It's not new. It would depreciate a
8 certain amount. And then there would be a deduction for a
9 coinsurance penalty if this 14,000-square foot building only
10 had \$650,000 worth of damage on it.

11 Q. Right, but --

12 A. Coverage. I'm sorry.

13 Q. We heard Mr. Poole come say he'd come to patch up
14 that roof and he did what he could with that roof; but that
15 was an old roof, right?

16 A. It was an old roof, yes, sir.

17 Q. Okay. And did you ask Mr. Odom about the
18 inspection report?

19 A. I didn't even know it existed, sir, at the time of
20 the claim.

21 Q. When did you first hear about the inspection
22 report?

23 A. Just sometime within the litigation.

24 Q. Like, recently?

25 A. Not recently. I think we were -- could have been

1 months ago.

2 Q. So where I'm having a little disconnect, we got
3 that well into the litigation, was the first we saw it. I
4 think that's the first time you saw it. Is that fair?

5 A. I would assume during the litigation, yes, sir.

6 Q. And you knew that Scottsdale was wanting to know
7 the extent of the depreciation; they were asking you?

8 A. Not at all. No, sir. Hundred percent not true.

9 Q. Well --

10 A. I agreed with Monte Jones who was Scottsdale's
11 representative --

12 Q. Well --

13 A. -- I'll agree to any of its depreciation. It
14 didn't matter. I agree to Scottsdale or Nationwide's
15 depreciation all the time.

16 Q. Okay. We looked at this earlier today. I'm sure
17 you were in the courtroom. This is D-31. We'll get it up --
18 can someone put this up for me? Thank you. This is in -- so
19 this is November 23rd --

20 A. Yes, sir.

21 Q. -- 2020. "Thank you for the update in getting
22 undisputed amount. Appreciate you looking into the
23 depreciation." So Scottsdale was still asking in November
24 what is the depreciation. And you say, I say you, your
25 office, "The insured is doing the work, and from what I

1 understand the building was well maintained pre-storm."

2 A. You're 100 percent not correct, sir. Scottsdale
3 was not asking us what -- you're taking a specific sentence
4 totally out of context. Grecco gave an estimate directly to
5 Scottsdale, to Adam Lock. Adam Lock told us that he didn't
6 agree with Grecco's depreciation. Adam Lock said that he was
7 going to request from Grecco his ESX file so he can put it
8 into his Xactimate and push his button that calculated
9 depreciation. Adam Lock told us that he didn't like Grecco's
10 depreciation. He was going to adjust it for us --

11 Q. Yeah and --

12 A. -- and we said okay.

13 Q. Maybe we're not arguing here. They were looking
14 into depreciation in November, yes, no?

15 A. They were doing whatever they were doing.

16 Q. So this big stack over there, you said your
17 estimate --

18 A. Yes, sir.

19 Q. -- you said that that was an estimate only, right?

20 A. An estimate what?

21 Q. An estimate only.

22 A. No, it's not an estimate only. It's got the plans.
23 It's got the photographs. It's got the details. It's got
24 incurred invoices in it.

25 Q. Fair enough. The amounts that were asserted, the

1 2.1 million, that was an estimate only?

2 A. No, sir. In it were actual invoices from
3 contractors. So the contractor did work, he gave us an
4 invoice, we put it in the incurred section, and then I wrote
5 a line-by-line using the insurance company's valuation, and
6 then I put a number in there that said "if incurred," which
7 was that 265.

8 Q. We can get into that in a bit.

9 MR. WOLFF: D-77, it's Skyline's 242-1.

10 MS. BROWN: No objection.

11 THE COURT: It'll be admitted.

12 MR. WOLFF: Thank you, Your Honor.

13 BY MR. WOLFF:

14 Q. So this is from your files. This is after
15 Mr. Stuck asked you about what the claim and your office
16 responds back, "It is and was only an estimate. The true
17 cost is only actually realized when the repairs and/or
18 replacement is complete." Is that what your office said?

19 A. That's exactly what it said, yes, sir.

20 Q. Okay. So that \$2.1 million estimate was for the
21 building only? The one that you submitted, the big stack,
22 the 2.1 million was for the estimate for the building repair
23 only, correct?

24 A. Yes, for -- yes, emergency services but related to
25 the building, yes, sir, not --

1 Q. And then you would have to add to that, because I
2 want to get apples and apples. I just want to have apples to
3 apples.

4 A. Sure.

5 Q. So we've seen this a number of times. So Eaux's
6 public adjuster, that's you, right?

7 A. Yes, sir.

8 Q. So yours was really 2.2. Can you give me 3,000
9 plus dollars to make it 2.2 for ease?

10 A. It was not, but you can use any number you like.

11 Q. You tell me.

12 A. My estimate was 1.9 with a \$265,000. If you want
13 to add them together and round it up, totally fine by me.

14 Q. Okay. You submitted that which included a
15 contingency, and Mr. Lock said he didn't know what it was,
16 but 2.2. But that didn't include the All Clear 490 something
17 thousand, right?

18 A. That's correct.

19 Q. And so that also didn't include the temporary
20 roofing, right?

21 A. You're incorrect, sir. It included the invoices to
22 date for the temporary roofing.

23 Q. Did it include the permanent roofing?

24 A. Not the -- well, it included -- so --

25 Q. Crest? It included the Crest temporary roofing?

1 A. Yes, sir.

2 Q. But not the Poole Roofing?

3 A. It included the roofing scope using Xactimate
4 pricing, using the insurance company's pricing database. It
5 was the scope. And then the actual cost is what Mr. Ricky
6 Poole estimated that ultimately did. Then there was an
7 adjustment in his pricing.

8 Q. So this at a minimum would be 2.6, roughly, when
9 you add on the All Clear?

10 A. Yeah, in that range. So, like, 2.4 or 2.35 plus
11 the contingency which comes to around 2.6. Yes, sir.

12 Q. To make apples to apples, 2.6 is what you're saying
13 that your original estimate was all-in. And then -- and we
14 don't agree with this number. We think it's substantially
15 less. But the 2 million is what the actual costs were,
16 correct?

17 A. No, because work isn't done and no to what you said
18 earlier because the All Clear invoice was not what it was.
19 So they gave us their invoice, then it ultimately was 330.
20 So I know that their invoice was something, but it got
21 adjusted. But you're saying that I made a claim for it or it
22 was my number. It was not my number and it was not my total.

23 Q. And if I said that or inferred that, I apologize,
24 or implied that. All-in, if the company -- insurance
25 company's looking at it, you got your 2.2 plus the All Clear,

1 they'd be looking at 2.6 on this billing, right?

2 A. That would be correct, yes.

3 Q. And this number here, we're talking apples to
4 apples. This number here all-in -- again, I don't agree. I
5 think they actually paid -- you're talking about actual cost.
6 But what was actually paid to get the work that's done, that
7 includes the mitigation, this \$2 million figure, it includes
8 the repair work, all of that, correct?

9 A. Yes, sir.

10 Q. So all-in, apples to apples, you were 600 grand --
11 if you take it all-in, there's a 600 grand difference, right?

12 A. No, sir.

13 Q. 2 million and 2.6 --

14 A. You're just picking a number that's not the number.
15 So they've spent 2 million to date, and Scottsdale's guy
16 agrees that there's another -- it's not -- he has a number in
17 his estimate. The work, it wasn't funded. The windows
18 weren't done at the time. Let me finish. So the builder has
19 to remobilize. The builder's charging to go back down and do
20 the windows. That work is still yet to be done. That has to
21 be added to this number. So that's about -- and I could pull
22 it up or you could pull it up. You have the information.
23 It's a number that -- or it's in Mr. Stuck's breakdown, and
24 he took the number that the builder -- that Encore was
25 charging and he agrees to fix the windows; but what he

1 disagreed with was that they had to come back down and the
2 charges they were charging to come back down and supervise
3 it. But it's not -- it's in addition to the \$2 million.

4 Q. So the \$2 million, have you seen checks? Have you
5 seen actual payments of \$2 million?

6 A. I believe you guys have it in a file.

7 Q. Do you know what they are, the actual out-of-pocket
8 checks?

9 A. Yeah. They put it up on the screen for last day
10 yesterday.

11 Q. The Encore contract that they've shown, the 1.36,
12 you know about the contract?

13 A. Yes, sir.

14 Q. You didn't follow the work, right?

15 A. Say that again.

16 Q. You didn't follow or supervise the work? You
17 weren't involved in the negotiation of the contract?

18 A. I did follow the work. I did -- I've been spending
19 time there. I've been through all phases of construction.
20 And I didn't have anything to do with the contract, the
21 signing of the contract, the writing of the contract; but I
22 followed the work completely through.

23 Q. Then you can tell the jury that Encore actually has
24 been paid 932,000 and not 1.36 -- 1.3 something million?

25 A. I don't have the checks. It's whatever was on the

1 sheet.

2 Q. That's what I'm getting at. You don't know.
3 You're taking at face value that the 1.36 is what's actually
4 been paid?

5 A. No. I know that it's what's incurred. It's what
6 the cost is. I believe and I sort of --

7 Q. I don't want you to guess. If you know, you know.
8 That's fine. But I think you already --

9 A. I do know there is a component that hasn't been
10 paid and it's accruing interest. I don't know the dollar
11 amount.

12 Q. Okay. We can let someone else deal with that, but
13 back to your estimate then. Let me pull this off. The
14 numbers you submitted all-in were high, right?

15 A. They were pretty close. They can be, like, within
16 10, 15 percent of the actual number; but yeah, they're pretty
17 close.

18 Q. I appreciate the response, and we can talk about
19 how close it is; but your number, your estimate, was high?

20 A. Higher than what it cost to replace, no. My
21 estimate at 1.9 was lower than what it cost.

22 Q. What you submitted to Scottsdale that included the
23 contingency and the 2.2, that's a high number, right? It's
24 higher than what it actually cost even according to these
25 figures?

1 A. No, it's the scope. So what it is, I go in and I
2 measure, I write down what's missing, how many square feet of
3 drywall is missing, and I use their pricing. I used your
4 produce list. I used the insurance company's program and the
5 insurance company's price list that they wanted to use and
6 agreed to their depreciation. They just didn't pay.

7 Q. And we can look into that. And we talked about
8 this and the judge suggested I deal with this on my cross,
9 and I'm doing it now. You sent a notification in this case
10 with your contract, and we looked at that contract before.
11 That's D-65 that has your hourly rate of 475. It's capped at
12 the 10 percent. But you actually sent notice that you have
13 an interest in this claim, right?

14 A. Yes, sir.

15 Q. Now, I was a little confused because you said that
16 you used Xactimate and that you didn't include pre-existing
17 issues. Is that what I understood you to say?

18 A. We did not put the plywood --

19 Q. How many --

20 A. -- exterior.

21 Q. I heard you say it was four pieces of plywood. Did
22 I mishear you?

23 A. No, you did not mishear me. There was plywood
24 replaced for two different reasons, neither of the two
25 reasons were in the claim.

1 Q. So how many pieces of plywood had to be replaced?

2 A. For the rot, like, maybe five or six pieces of
3 plywood.

4 Q. Do you know why Encore would have charged \$20,000
5 for that?

6 A. They didn't charge \$20,000 for that. What Encore
7 did was two things. Where the perimeter of the windows were,
8 because it was receiving a new track system, they just
9 replaced the plywood all the way along the ribbons; and it
10 wasn't charged or wasn't claimed to the insurance company.

11 Q. So where, if anywhere, in this big stack of
12 documents did you outline what was pre-existing damage?

13 A. We excluded them. And when Monte Jones went there
14 I showed him what was in the estimate, I showed him what was
15 not. I showed Monte Jones -- with the exception of one item,
16 I showed him all the things that we were leaving out and the
17 things that we were putting in. I walked him to the
18 pre-existing and the screws from the outside in the panels.
19 I walked him around to where the water was coming in. I
20 showed him that it was dry. I showed him the thermal image
21 photos. I showed him everything, and he knew we were not
22 claiming it.

23 Q. So I appreciate that, but did you --

24 A. I did the same thing with Mr. Grecco. Sorry.

25 Q. I appreciate that. Did you outline in your big

1 document there what you were excluding?

2 A. Did we say we're not putting in the rot, no. We
3 didn't claim it.

4 Q. What about --

5 A. We didn't put the fence in either because there was
6 no coverage. We didn't put the other -- you know, things
7 that were not part of the claim we didn't put in.

8 Q. So you did not -- you did not specifically outline
9 we are excluding broken exterior or bad caulk, the trimming,
10 and the other issues that are outlined in the inspection
11 report? Did you do that?

12 A. I don't know. I'm trying to follow you. If you're
13 saying did we outline that we didn't -- did we outline the
14 things we didn't put in the estimate?

15 Q. Right. Because you had, I think, estimated at 54 a
16 square for the external paneling?

17 A. No. If you look at the file notes from the -- from
18 Scottsdale or Nationwide, they thought we claimed the value;
19 and then later in the file notes it says it turns out that's
20 not it. It's more accurate what he's claiming. If you only
21 read one file note out of context, somebody that doesn't know
22 what it costs or what the panel is is saying that he thinks
23 my number's high; but then they realized it was not.

24 Q. What was your number?

25 A. I have to look at the estimate. I can tell you.

1 If you give me book No. 1, I can open it and go right to the
2 panel number.

3 Q. I'll let your counsel do that. Did you make any
4 attempt to compare what was in the building inspection done
5 before this storm with the pre-existing that you say
6 excluded?

7 A. Since litigation, yes, sir. Since litigation
8 started. So not prior to it because I didn't see the report.
9 Once I saw the report, I went through it and looked at it and
10 it's really clear.

11 Q. You know, we -- are you aware that we asked about
12 what maintenance had been done on this building after
13 purchase and up to the time of the storm?

14 A. I'm not aware. Nobody asked me.

15 Q. You weren't aware, then, that we were told that
16 there were no invoices to show any maintenance?

17 A. Well, so in the photo of the report from 2018 it
18 shows, like, a ceramic tile floor. In there is a vinyl plank
19 floor that's like a wood artificial floor.

20 Q. Yeah, but --

21 A. If there's not an invoice, it doesn't mean it's
22 still not a new floor.

23 Q. No, no, no. We're talking about maintenance that
24 addressed -- have you seen these -- well, we don't have --
25 can we turn this on. This is again at D-61, the inspection

1 report. You see these major concerns? I know you didn't get
2 this at the time you were submitting your estimate. Have
3 you -- you've looked at that, right?

4 A. Yes, sir.

5 Q. Did you get from Mr. Odom any invoices to show what
6 work was done to fix these issues?

7 A. I did not ask for invoices. I have not seen
8 invoices.

9 Q. Well, we did and we were told there were none. Why
10 didn't you ask for any invoices?

11 A. It's totally moot. It's a lawyer argument for
12 litigation, not related to a claim. And when I looked at the
13 photo, if you look at Granger Stuck's cover photo, it shows
14 the different roof. That's not the roof in that -- in the
15 photos you have right there. So No. 16 and 17 of what you
16 just had up was talking about the rolled roofing --

17 Q. Right.

18 A. -- and the gaps in the rolled roofing, that whole
19 area that's in your photos was replaced. And Mr. Poole,
20 Mr. Ricky, said today he's the one that replaced it.

21 Q. Well, there weren't any invoices produced. We know
22 he went up there and did some work around the roof, and he
23 said he put it in as good a condition as he thought he could.
24 Right. But you don't know what that -- it certainly wasn't a
25 new roof at that point, right?

1 A. That's correct. It's not a new roof right now.
2 It's a year old or whatever. It's -- you know.

3 Q. I give you touche on that. Was that other roof,
4 did it have a warranty?

5 A. Excuse me.

6 Q. Did the old roof have a warranty?

7 A. I don't know. But from what you're telling me, if
8 Ricky Poole put it on and he fixed it without charging
9 Mr. Odom, sounds like a warranty to me. But I don't know.
10 You're telling me that --

11 Q. I don't know.

12 A. We all know that the roof was fixed because it's in
13 the photographs. The before, old roof is in there. The new
14 roof is in there.

15 Q. So the short answer is you don't know whether there
16 was a warranty on the old roof?

17 A. I don't know other than what you're telling me now.

18 Q. I don't know either because we asked for invoices
19 and we didn't get any. And you didn't see invoices with
20 respect to repairing the seams on the outside of the
21 building, repairing the window issues that were noted in the
22 inspection report, working on the exterior doors? You don't
23 know if any of that was done, do you?

24 A. That is correct, except the difference of what it
25 is in the photo and what it is -- what it was in real life

1 when I showed up.

2 Q. And you're aware that Mr. Odom selected Encore to
3 do this work, correct?

4 A. Yes, sir.

5 Q. Had you seen Encore before this?

6 A. Yes, sir.

7 Q. How?

8 A. They were on a job in North Carolina and they --
9 the building owners or the management company or it was a
10 condominium association, somebody brought them in and they
11 were one of the bidders. I think there was two or three
12 bidders and they got the job. That's how we knew them.

13 Q. Did you recommend Encore?

14 A. No, sir.

15 Q. How did Encore get hooked up with Mr. Odom
16 through --

17 A. I don't know how they originally got hooked up; but
18 Mr. Odom asked me if I knew them and I said, "Absolutely.
19 They're good guys."

20 Q. They do good work?

21 A. They do really nice work, yeah.

22 Q. As far as you know, that building was repaired well
23 by Encore, it met the GSA requirements, and it was good work?

24 A. Are you telling me or asking me?

25 Q. Is that your opinion?

1 A. Yeah, they did a good job.

2 Q. Okay. Thank you. And it's true that Encore was
3 not licensed to work as a contractor in Louisiana until
4 November 24th, correct?

5 A. Yes. They told Mr. Odom that when we first met.
6 And the other guy that was -- the other contractor that was
7 bidding was licensed; but because of the lead times and
8 everything, they probably had, I don't know, I'm going to say
9 150 hours worth of preconstruction work to do the
10 calculations to figure out what had to be done to have GSA
11 pick. Because that old color that I showed you on that
12 chart, some of those things, that exact carpet's not made
13 anymore. It's a different name. So before they even could
14 order the carpet they had to get the specs, go to GSA and say
15 pick one of these. So they were doing a lot of work while
16 they were in the process of getting their contractor's
17 license to physically do work. So they were doing pre-con
18 work.

19 Q. Okay. Just like a public adjuster, contractors are
20 licensed by the State of Louisiana, right?

21 A. Yes, sir.

22 Q. Before they can bid, before they can quote, before
23 they can do the construction work, they have to be licensed?

24 A. I don't know the law --

25 Q. Okay.

1 A. -- regarding builders.

2 Q. Fair enough. I'm not asking you anything other
3 than whether or not they were licensed before November 24th.
4 And I think you also volunteered for me that Mr. Odom was
5 aware that they weren't licensed until that time, correct?

6 A. He was aware that they were getting their license
7 to be able to do this job, and I believe that there was some
8 work. And I don't know the whole specifics. I'm just
9 recalling that at some point work that was up to \$50,000 for
10 emergency work or something didn't have to be. I don't know.
11 All I know is that they were working on the selections and
12 everything and they were doing preconstruction work.

13 Q. And then, as they were licensed, they began work.
14 And that was a process that went on for, what, six or seven
15 months, right?

16 A. The physical work, I don't believe so.

17 Q. Well, when was substantial completion?

18 A. I'm not sure of the date. There was a very, very
19 initial schedule. So what happened and why --

20 Q. That's not what -- all I asked you was when was the
21 date of substantial completion on this building?

22 A. I don't know.

23 Q. Okay. You handled a number of other claims for
24 Mr. Odom, correct?

25 A. Yes, sir.

1 Q. That's on other properties?

2 A. Yes, sir.

3 Q. And you've worked for the Cox firm, correct?

4 A. In what context?

5 Q. You've been hired by the Cox firm on other cases,
6 or no?

7 A. For -- I work --

8 Q. Public adjuster.

9 A. No, sir. Not as public adjuster, no, sir.

10 Q. Okay. Now, there was a point in time in October, I
11 believe, that Encore and you were involved in getting an
12 engineering group to come in and look at the exterior panels?

13 A. No, sir.

14 Q. Did they ever generate a report, any engineering
15 company generate a report?

16 A. I just said no, I didn't -- my answer was no. I
17 don't know that -- I had nothing to do with bringing an
18 engineer in.

19 Q. Do you know if an engineer came in to look at the
20 cladding, the exterior, and give opinions?

21 A. I think there was an eaves guy. There was some --
22 like, the company that sells the exterior products, they were
23 in there. And I know that Encore was spending a lot of time
24 trying to find out because the window flashing, the window
25 trim comes and hangs over the panel so you couldn't put a

1 thicker paneling because it would stick out further than
2 where the water would go and the water would go behind the
3 panels. So what happened was he had a design professional,
4 but I think -- I don't know who it was, and they were trying
5 to figure out what products were out there that you can put
6 on the building that wouldn't adversely affect the building.

7 Q. Do you know -- I'm sorry.

8 A. And I know that somebody was like -- there was
9 somebody there doing -- trying to identify the thickness of
10 everything and all the details to see what program -- what
11 product they can put on. And I think the same thing with the
12 windows. So the window frames were torn out and damaged and
13 the window trim where the glass is, the metal that goes
14 around it that was in one of the pictures that was smashed,
15 it's shaped like a Z and it goes under the panels; and how
16 it's screwed on is under the panel so the panel has to come
17 off to get to it. So somebody was trying to figure those
18 details out to find out how they can do that. I don't know
19 that they were an engineer or not or if they were just trying
20 to figure out a product.

21 Q. I'm not sure if I got an answer, but was a report
22 issued?

23 A. Not that I know of.

24 Q. So you're saying you did not get a report from an
25 engineering company on the exterior?

1 A. I did not get a report. To my knowledge, I did not
2 get a report from an engineering company on the exterior. I
3 was very clear from day one the panels blew off. We knew
4 what panel it was. We researched it. They don't manufacture
5 them anymore. And we made the argument that
6 indemnification -- or that you can't fix it. They don't make
7 them anymore. So we made the argument and we said here's the
8 cost to replace them.

9 Q. And so, again, so that I'm clear, and I don't want
10 to spend a lot of time other than you're saying you did not
11 see an engineering report and had you seen an engineering
12 report that related to this building that is something you
13 should have sent to Scottsdale, correct?

14 A. When you say an engineering report related to the
15 building, I included engineering drawings --

16 Q. Sir --

17 A. -- related to building the building. It was in the
18 book.

19 Q. And I appreciate that. If you'd focus on my
20 question, we'd all get out of here.

21 A. I'm just --

22 Q. If there was an engineering -- I'll take
23 responsibility. I need to be more clear. If there was an
24 engineering report that was generated after your big
25 estimate --

1 A. Yes.

2 Q. -- and it related to the building, is that
3 something you should send to Scottsdale?

4 A. Yes, sir.

5 Q. Okay. Thank you. Just one second. Thank you,
6 sir. I got clearance to let you go.

7 THE COURT: Redirect, Ms. Brown.

8 **REDIRECT EXAMINATION**

9 **BY MS. BROWN:**

10 Q. Just have a couple follow-up questions, Mr. Major.
11 Mr. Wolff spent some time asking you about whether you've
12 seen actual payments for these costs. You understand these
13 to be the costs that Mr. Odom has incurred and owes?

14 A. That is correct.

15 Q. Some of them have been paid, some of them have not?

16 A. Yes, ma'am.

17 Q. In your experience -- well, you heard Mr. Lock
18 testify yesterday and he agreed that under the replacement
19 cost policy incurred is enough?

20 A. That's correct, yes, ma'am.

21 Q. And that's your experience as well; they don't have
22 to actually come out of pocket and pay and then get the money
23 from insurance?

24 A. That's correct. Traditionally they need the money
25 from the insurance company to be able to pay.

1 Q. Correct. One other thing. Mr. Wolff was trying to
2 get you to agree to some things on this chart. And the fact
3 of the matter is even if you add -- even if you add the full
4 All Clear estimate, the full bill, excuse me, the full
5 491,000, which is not what it was ultimately to your
6 estimate, your estimate at 2.5, 2.6, whatever they want to
7 call it, is still closer to what has actually been incurred
8 than their initial payment?

9 A. That's correct, by multiples.

10 Q. Than Grecco's estimate?

11 A. That's correct.

12 Q. And even by Mr. Stuck -- it's not closer than
13 Mr. Stuck's estimate, but his finally starts to get them
14 closer?

15 A. Right, but Mr. Stuck didn't write an estimate. He
16 took Encore's actual cost and said, "Oh, I'm going to adjust
17 these things." So it's not an estimate.

18 Q. All right. That's all I have.

19 A. Thank you.

20 THE COURT: Okay. You may step down.

21 MR. COX: We've got one more witness, Your Honor.
22 If I could, I'd like to get about a five minute break.

23 THE COURT: Sure. Let me ask you this. How long
24 is this witness going to take?

25 MR. COX: On direct, I would say 20 minutes.

1 Lawyer minutes, that might be 30.

2 THE COURT: I don't trust the lawyers to give me
3 estimates on time, although I am one. I'm just -- I'm
4 trying to -- let me ask the jury. Ladies and gentlemen,
5 how many of you are spending the night, if you don't
6 mind me asking? Two. The rest of you are traveling
7 back and forth? Are you having to work, sir, at night?
8 God bless you. He's one of our firemen. Do you have to
9 work tonight? I'm just trying to decide if we should go
10 ahead and call it right now. Some people are traveling.
11 I don't know if you think it's only going to take 20, 30
12 minutes, we can take another witness and keep this thing
13 moving.

14 MR. COX: I think the cross will take longer than
15 that, I would imagine.

16 MR. WOLFF: I don't know who it is.

17 THE COURT: We don't know who it is. That's a
18 great question. Who is it?

19 MR. COX: It's Joey Odom.

20 THE COURT: Oh. Yeah, that's probably going to
21 take awhile, huh, Mr. Wolff?

22 MR. WOLFF: Not super long but longer than
23 comfortable for the jury, I'm certain.

24 THE COURT: What would the jury like to do? I'm
25 going to ask y'all. Would y'all like -- here's the

1 thing. It's already ten after and I really don't want
2 to keep people past 5:00 o'clock. Now, if we get to the
3 end of the week, we may stay late to wrap this thing up.
4 But I don't want to press anybody. The weather's been a
5 little hairy today, I think.

6 MR. COX: He's our last witness, Your Honor. And I
7 think I'd prefer to call him tomorrow morning and get it
8 done quickly, let everyone go for the day.

9 THE COURT: Okay. Let's do that, then. I want to
10 keep it moving because we don't want to waste your time.
11 But since this is probably going to be their last
12 witness and the defense will start their case, we're
13 moving along quite well, which I'm glad to hear. We
14 have to keep our jurors first and foremost. You know,
15 they're -- some of them are traveling as far as
16 DeRidder, Leesville. We have to respect that. So if we
17 can give them a little extra time today, I think that
18 will be good. So we'll call it for today. Thank you
19 all very much. We'll start back up at 9:00 tomorrow
20 morning. Okay.

21 (Jury exits courtroom.)

22 THE COURT: Okay. All right. Y'all can be seated.
23 Anything else for today?

24 MR. COX: No, Your Honor.

25 THE COURT: Okay. Stand at recess.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Proceedings recessed for the day.)

* * * * *

CERTIFICATE

I hereby certify this 16th day of May, 2022 that the foregoing is, to the best of my ability and understanding, a true and correct transcript of the proceedings in the above-entitled matter.

Deidre D. Juranka
Deidre D. Juranka, CRR
Official Court Reporter

Deidre D. Juranka, CRR
United States Court Reporter
Western District of Louisiana